

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-1**

A RESOLUTION AUTHORIZING THE AWARD OF PRESORT MAILING SERVICES TO ABS PRESORT, MODESTO, CA FOR A PERIOD OF ONE (1) YEAR WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS

WHEREAS, by Resolution No. 2002-335, Council authorized the solicitation of formal proposals for presort mailing services, and

WHEREAS, the City of Modesto's City Clerk's Office and Finance Department Customer Service Division combined resources with Stanislaus County and the Modesto City School District to obtain the best value possible for presort mailing services, and

WHEREAS, these services include the collection of mail from centralized locations, presorting by zip codes, bar coding and delivery of metered mail.

Additionally, the vendor is required to fold, insert into envelopes, presort, barcode and mail City's utility billings, and

WHEREAS, by using a presort service, the City receives a discount of approximately \$0.04 per piece on postage, and this discount postage rate includes the cost of the presort service, and

WHEREAS, for the utility billing alone, this equates to a postage savings of approximately \$2,700.00 per year, and

WHEREAS, the Purchasing Division solicited formal proposals for presort mailing services from nine (9) vendors with two (2) responding to the Request for Proposal (RFP), and

WHEREAS, ABS Presort met all of the proposal specifications and was deemed to be the lowest responsive and responsible bidder with a proposal of \$1,232,444.00 for all Agencies, and

WHEREAS, the estimated annual cost to the City is \$270,200.00 for a period of one (1) year, with four (4) one-year extension options, and

WHEREAS, City staff recommends that the City award the proposal for presort mailing services to ABS Presort for a one (1) year agreement, with four (4) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the proposal for presort mailing services to ABS Presort, Modesto, CA for an estimated "City Wide" annual cost of \$270,200.00 for a one (1) year agreement, with four (4) one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-2**

**A RESOLUTION ADOPTING AN ONLINE PRIVACY AND USE STATEMENT AND
AUTHORIZING ITS INCLUSION ON THE CITY OF MODESTO INTERNET WEB
SITE**

WHEREAS, the City continues to promote use of its public web site and participates in e-government, and

WHEREAS, there may be online collection of personal information from citizens in some applications, and

WHEREAS, it is in the best interest of visitors to the City's web site to adopt policies pertaining to citizen's privacy concerns, and

WHEREAS, it is the City's desire to strengthen consumer support for new, innovative e-government applications and on-line services, and

WHEREAS, City staff has proposed that an Online Privacy and Use Statement be adopted to alleviate citizens' concerns and encourage the use of new technologies and methods of interacting with government, a copy of the proposed Online Privacy and Use Statement is marked **Exhibit "A"**, attached hereto and incorporated herein by reference, and

WHEREAS, the Finance Committee met on November 25, 2002 and supported the recommended Online Privacy and Use Statement, and

WHEREAS, the Information Technology Department , by report dated November 26, 2002 to the Mayor and City Council, a copy of which is on file in the office of the City Clerk, recommended adoption of a resolution approving the proposed Online Privacy and Use Statement, and

WHEREAS, at its meeting which was held on January 7, 2003, the Council considered the proposed Online Privacy and Use Statement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Online Privacy and Use Statement, a copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Information Technology Department is authorized to post the Online Privacy and Use Statement on the City of Modesto Internet Web Site.

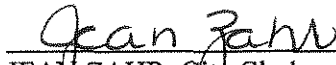
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

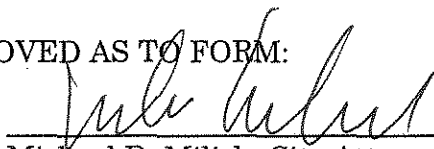
ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

City of Modesto Online Privacy and Use Statement - DRAFT

Department of Information and Technology
revised: 12/06/02

Section A. Introduction

This statement addresses collection, use, security of and access to information that may be obtained through use of the City of Modesto's web site (<http://www.modestogov.com>). It is provided for informational purposes only. The information presented here is not meant to be a contract of any type either expressed or implied, and should not be treated as such by site visitors. The information in this statement and/or the policies described here may change at any time, without prior notice to any visitor.

This statement covers the following topics:

- Section B. Information Collected and How it is Used
- Section C. Personal Information and Choice
- Section D. Public Access to Personally Identifiable Information
- Section E. Procedure for Review and Correction of Personally Identifiable Information
- Section F. Minor's Privacy Policy
- Section G. Use of Cookies and Applets
- Section H. Security
- Section I. Electronic Commerce
- Section J. Disclaimer of Linked Content
- Section K. Limitation of Liability
- Section L. Ownership Statement
- Section M. Contact Information

Section B. Information Collected and How it is Used

1. Information collected if you only browse this site.

If you do nothing during your visit to our web site but browse, read pages, or download information, we will gather and store certain information about your visit. This information does not identify you personally. The following information is automatically collected and stored about your visit:

1. The Internet Protocol Address and domain name used. The Internet Protocol address is a numerical identifier assigned either to your Internet service provider or directly to your computer. We use the Internet Protocol Address to direct Internet traffic to you. This address can be translated to determine the domain name of your service provider (e.g. xcompany.com or yourschool.edu). Generally, the City only determines visitor domain names if a security issue is suspected;
2. The type of browser and operating system you used;
3. The date and time you visited this site;
4. The web pages, downloaded files or services you accessed at this site; and
5. The web site you visited prior to coming to this web site.

This information is collected for statistical and site management purposes. The City's web site uses software programs to create summary statistics, which are used for such purposes as assessing what information is of most and least interest, determining technical design specifications, and identifying system performance or problem areas.

For site security purposes and to ensure that this service remains available to all users, the City's web site employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage. Except for authorized law enforcement investigations and the security purposes mentioned elsewhere in this notice, no other attempts are made to identify individual users or their usage habits. Raw data logs are used for no other purposes.

Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under state and federal statutes including the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

2. What we collect if you volunteer information.

If during your visit to our web site you participate in a survey, send an email, or perform some other transaction on-line, the following additional information will be collected:

1. The email address, and contents of email, for those who communicate with us via email.
2. Information volunteered in response to a survey.
3. Information volunteered through an on-line form for any other purpose.
4. Information volunteered by participating in an online transaction with the City.

The information collected is not limited to text characters and may include audio, video, and graphic information formats you send us.

We use your email address to respond to you. Survey information is used for the purpose identified by the survey. Information from other on-line forms is used only for conducting City business related to the online form.

Information provided for a transaction is used only for the purpose of completing and recording the transaction. Information requested will be no more specific than if a visitor were engaging in the transaction by other means, including by telephone or in-person while visiting a City facility. In all cases, the City strives to collect the minimum information necessary to comply with applicable law or provide the service requested.

The City does not sell, rent or otherwise distribute visitor's information, including electronic mail addresses, to any outside company or organization, unless legally required to do so. This applies to information that may be collected on the City's site and on that of any third party with whom the City contracts to provide Internet related services.

Section C. Personal Information and Choice

You may choose whether to provide personal information on-line.

"Personal information" is information about a natural person that is readily identifiable to that specific individual. Personal information includes such things as an individual's name, address, and phone number. A domain name or Internet Protocol address is not considered personal information.

We collect no personal information about you unless you voluntarily provide it to us by sending us email, participating in a survey, completing an on-line form, or engaging in an online transaction. You may choose not to contact us by email, participate in a survey, provide personal information using an online form, or engage in an electronic transaction. Your choice to not participate in these activities will not impair your ability to browse, read, or download general information provided on the site. Information protected on this site by a password, when subject to disclosure, may be obtained by contacting the City directly.

If personal information is requested on the web site or volunteered by the user, state law and the federal Privacy Act of 1974 may protect it. However, this information is treated like any other information provided to the city, and may be subject to public inspection and copying if not protected by federal or state law.

If you believe that your personal information is being used for a purpose other than what was intended when submitted, please contact the department responsible for collecting the information. See [Contacts](#) for specifics.

Section D. Public Access to Personally Identifiable Information

In the State of California, laws exist to ensure that government is open and that the public has a right to access appropriate records and information possessed by government. At the same time, there are exceptions to the public's right to access public records. These exceptions serve various needs including maintaining the privacy of individuals. Both State and federal laws provide exceptions.

All information at this site becomes public record that may be subject to inspection and copying by the public, unless an exemption in law exists. In the event of a conflict between this Privacy and Use Statement and the California Public Records Act, the California Civil Discovery Act of 1986, the Information Practices Act, or any other law governing the disclosure of records, the California Public Records Act, the California Civil Discovery Act of 1986, the Information Practices Act, or other applicable law will control.

The City of Modesto only shares such public records with another government agency if the user's inquiry relates to that agency, to protect the interests of others, to protect and defend the rights or property of the City of Modesto or as otherwise provided by law.

While the California Public Records Act sets the general policies for access to City records, other sections of California code as well as federal laws may also deal with confidentiality issues.

Section E. Procedure for Review and Correction of Personally Identifiable Information

Unless otherwise prohibited by state or federal law, rule or regulation you will be granted the ability to review and correct the personally identifiable information collected. Prior to making your information available or revising it, the City of Modesto will take reasonable steps to verify your identity. Each city service that collects personally identifiable information will allow for review and update of that information. See [Contacts](#) for specifics.

Section F. Children's Privacy Policy

Any information collected by any City site from children under 13 is subject to the same guidelines as the general City Privacy and Use Statement. In addition, the following guidelines will be followed for any information collected by or for any child under 13:

- Information that could be collected from or for a minor includes but might not be limited to name, address, telephone number, e-mail address, school, and hobbies.
- Parental (including legal guardian) Consent
 - Parental consent will be obtained before collecting, using or disclosing personal information about a child.
 - If any information practices change in a "material" way, new consent will be obtained from the parents. This includes changes in the kinds of material being collected, a change in how that information is being used, or if there is a change in the third parties that have access to that information.
- Parents will be able to review the personal information collected from their children. This will require verification of the identity of the requesting parent. See Procedure for Review and Correction of Personally Identifiable Information for specifics.
- Parents will be allowed to revoke their consent and delete information collected from or for their children on request. When consent is revoked, the website will stop collecting, using or disclosing information from or for that child. Revocation may end a child's participation in an activity if the information collected was necessary for participation on the website.
- Additional information can be obtained at the FTC's Consumer Response Center and the Kidz Privacy websites.

Section G. Use of Cookies and Applets

Cookies are simple text files stored on your computer by your web browser. The City does not currently use cookies on its web site. However, because cookies can be used to customize your browsing experience and confirm the integrity of an online transaction, the City may decide to use them in the future. If the decision is made to use cookies, the only personal information they will contain is information you supply yourself.

The use of Cookies can be disabled through a setting in your browser. However this may prevent you from using features that require them.

An Applet is a program that can be included in an HTML page, much in the same way an image is included. When you use a browser to view a page that contains an applet, the applet's code is transferred to your system and executed by the browser. Applets are intended to enhance your browsing experience by enabling you to view information in a unique manner or enable access to information that your computer would otherwise be unable to access without the applet.

The use of Applets can be disabled through a setting in your browser. However this may prevent you from using features that require them.

Section H. Security

Unless a particular web page on the City of Modesto's web site indicates that encryption technology is being used, the user should not assume that information uploaded through that web page to the City of Modesto's web server will be treated as confidential. If a user submits information to the City of Modesto's server through a web page containing visible indicators of active encryption technology, the City of Modesto will take all reasonable precautions to safeguard the confidentiality of such information, but shall nevertheless not be held liable for any

injury caused by the disclosure of that information, whether caused by security breach, accident, inadvertence or any other act resulting in disclosure.

Section I. Electronic Commerce

Increasingly, you have the option to do business with the City over the Web including making electronic payments for goods and services. Such transactions are allowed only under tightly controlled circumstances, where there are appropriate technological and other safeguards in place to protect financial and other sensitive data.

Under statute, the City is responsible for properly securing communications that are exempt from public disclosure. This includes financial information.

The design of the electronic commerce systems supported on the City's web site is such that financial data remains primarily with financial institutions. Wherever possible, financial information is not seen or collected by the City itself. Instead, designated banks route the data, transfer the funds and confirm payment to both you and the City. In addition, measures including but not limited to encryption are used to ensure the integrity and security of your financial information.

The provision of this Privacy and Use Statement shall not be construed in any way as giving business, legal, or other advice, or warranting as fail-proof, the security of information provided via the City's web site.

Section J. Disclaimer of Linked Content

The City's web site has many links to other web sites. These include links to web sites operated by other government agencies, nonprofit organizations and private businesses. When you link to another site, you are no longer on the City's web site and this Privacy Notice will not apply. When you link to another web site, you are subject to the privacy policy of that new site. Visitors linking to another site are encouraged to examine the privacy policy of that site.

Neither the City, nor any department, officer, or employee of the City warrants the accuracy, reliability or timeliness of any information published by this system, nor endorses any content, viewpoints, products, or services linked from this system, and shall not be held liable for any losses caused by reliance on the accuracy, reliability or timeliness of such information. Portions of such information may be incorrect or not current. Any person or entity that relies on any information obtained from this system does so voluntarily at his/her own risk.

Section K. Limitation of Liability

The City of Modesto attempts to maintain the highest accuracy of content of its web site. Any errors or omissions should be reported for investigation.

The City of Modesto makes no claims, promises, or guarantees about the absolute accuracy, completeness or adequacy of the contents of this web site and expressly disclaims liability for errors and omissions in the contents of this web site. No warranty of any kind, implied, expressed, or statutory, including but not limited to the warranties of non-infringement of third party rights, title, merchantability, fitness for a particular purpose, and freedom from computer virus, is given with respect to the contents of this web site or its hyperlinks to other internet resources.

Reference in this web site to any specific commercial products, processes, or services, or the use of any trade, firm, or corporation name is for the information and convenience of the public, and

does not constitute endorsement, recommendation, or favoring by the City of Modesto, or its employees or agents.

This Privacy and Use Statement is subject to change without notice.

Section L. Ownership Statement

In general, information presented on this web site, unless otherwise indicated, is considered in the public domain. It may be distributed or copied as permitted by law. However, the City of Modesto does make use of copyrighted data (e.g. photographs), which may require additional permissions prior to your use. In order to use any information on this web site not owned or created by the City, you must seek permission directly from the owning (or holding) sources. The City shall have the unlimited right to use for any purpose, free of any charge, all information submitted via this site except those submissions made under separate legal contract. The City shall be free to use, for any purpose, any ideas, concepts, or techniques contained in information provided through this site.

Section M. Contact

The City of Modesto is made up of several departments. Each department is responsible for the personally identifying information it collects. To review your collected personal information, if any, or request correction of factual errors in your personal information, please contact the department that requested the information. Contact information can be found on each department's main web page.

To offer comments about the information presented in this Privacy and Use Statement, please contact:

By e-mail: webmaster@modestogov.com
By fax: (209) 491-4333
By mail: Webmaster
City of Modesto
P.O. Box 642
Modesto, CA 95353

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-3**

A RESOLUTION TO SUPPLEMENT MILITARY PAY AND CONTINUE HEALTH INSURANCE FOR UP TO TWENTY-FOUR (24) MONTHS FOR EMPLOYEES CALLED TO ACTIVE DUTY FOR NATIONAL DEFENSE BEFORE JANUARY 1, 2005.

WHEREAS, in the wake of the September 11th terrorist attack on America, two City employees have already been called into active duty, and

WHEREAS, on November 20, 2001, the City Council adopted Resolution 2001-592 extending pay and benefits for twelve (12) months for Reservists called into active military duty, and

WHEREAS, the City now desires to supplement military pay and continue health insurance for employees called to active duty for up to twenty-four (24) month, and

WHEREAS, the City has identified 12 regular City employees who are Reservists and who could be called into active duty, and

WHEREAS, the Modesto Police Officers' Association supports the City's efforts to continue to provide additional salary and health benefits to activated employees, and

WHEREAS, on November 25, 2002, the Council Finance Committee voted unanimously to recommend approval of this action to the full City Council,

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City will pay the difference between an employee's base City salary and the employee's military pay including all military allowances and/or premiums (if the base City salary exceeds the military pay).

BE IT FURTHER RESOLVED, that the City will pay the same contribution towards an employee's health, dental and vision premiums for an employee called into

active duty that it was paying at the time the employee was called up, excluding in-lieu deferred compensation payments.

BE IT FURTHER RESOLVED, the City will continue the benefits outlined in this Resolution for up to twenty-four (24) months for employees remaining in active duty and called into such duty before January 1, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-4**

A RESOLUTION APPOINTING FIVE (5) OF THE EQUAL OPPORTUNITY/DISABILITY COMMISSIONERS TO THE HUMAN RELATIONS COMMISSION AND AUTHORIZING THEIR JOINT MEMEBERSHIP IN BOTH COMMISSIONS AND GRANTING AUTHORITY TO CONDUCT JOINT MEETINGS

WHEREAS out of seven (7) authorized members on the Human Relations Commission there are five (5) vacancies, and

WHEREAS there are nine (9) Council Appointed Commissioners on the Equal Opportunity/Disability Commission for the City of Modesto, and

WHEREAS, for several years, the Human Relations Commission has been unable to obtain a quorum and conduct official business, and

WHEREAS, the City now desires to enhance the Human Relations Commission by assigning five (5) of the existing Equal Opportunity/Disability Commissioners dual roles of responsibility by serving on both Commissions, and

WHEREAS, on October 21, 2002, the Equal Opportunity/Disability Commission recommended approval of this action, and

WHEREAS, on December 9, 2002, the Economic Development Committee voted unanimously to recommend approval of this action to the full City Council,

NOW, THEREFORE, BE IT RESOLVED that the following individuals: Ed Penfold (Reappointed 2/12/02, Resolution No. 2002-73), Scott Hallmon (Reappointed 2/12/02 Resolution No. 2002-73), Galena Gilstrap (Reappointed 7/25/00, Resolution No. 2000-400), Jackie Deabler (Appointed 11/23/99, Resolution No. 99-581) and Dwight Bateman (Reappointed 2/12/02, Resolution No. 2002-73), all originally appointed to the

Equal Opportunities/Disability Commission, be reappointed to additionally serve as Human Relations Commissioners, as established by the City of Modesto Charter November 4, 1980. This term will expire in four years, on January 1, 2007,

BE IT FURTHER RESOLVED that the Human Relations Commission and the Equal Opportunity Commission be empowered to meet jointly as one body until otherwise determined by ordinance or Resolution and act as an advisory commission to City Council, formulate recommendations for furthering human relations in the community, and perform such other duties with respect to human relations and equal opportunity as the City Council may prescribe by ordinance or Resolution.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-5**

A RESOLUTION ACCEPTING THE PROJECT TITLED "UPGRADE TRAFFIC SIGNALS – STATE ROUTE 108" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Upgrade Traffic Signals – State Route 108", has been completed by Richard A. Heaps Electrical Contractor, in accordance with the contract agreement dated May 7, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "Upgrade Traffic Signals – State Route 108" project be accepted from said contractor, Richard A. Heaps Electrical Contractor, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$118,180 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-6**

**A RESOLUTION APPROVING A REQUEST TO STANCOG TO ADD THE
BRIGGSMORE INTERCHANGE UPGRADE PROJECT TO THE FEDERAL
TRANSPORTATION IMPROVEMENT PLAN AND THE INITIATION OF A
PROJECT SUTDY REPORT FOR THE INTERCHANGE**

WHEREAS, staff received a request from Councilmember Denny Jackman to initiate a Project Study Report (PSR) for future needs and improvements for the Briggsmore interchange, and

WHEREAS, in April 2001, the City Council adopted a list of priority projects, which included the Briggsmore Interchange, a copy of which is attached hereto as **Exhibit "A"**, and

WHEREAS, redesign of the Briggsmore Overpass is a regional project involving not only the City of Modesto but also the State of California, and StanCOG, and

WHEREAS, the Economic Development Committee reviewed and approved this project at their October 14, 2002 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and supports the request to StanCOG to add the Briggsmore Interchange upgrade project to the Federal Transportation Improvement Plan (FTIP) and the initiation of a Project Study Report for this interchange.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th of January, 2003 , by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT A

PROJECT PRIORITIES LIST

- Pelandale/Highway 99 Interchange
- Kiernan Avenue/SR99 Interchange
- Kansas/Highway 99 Interchange
- Briggsmore Ave/Carpenter Road/Highway 99 Interchange
- Tuolumne Boulevard Extension/Underpass
- Altamont Commuter Express Extension to Stanislaus County/Modesto

Citywide Street Repair and Rehabilitation

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 7**

A RESOLUTION APPROVING SOLICITATION OF A REQUEST FOR PROPOSALS FROM SIGN MANUFACTURERS TO DESIGN, MANUFACTURE AND INSTALL AN ILLUMINATED MARQUEE SIGN AT MODESTO CITY-COUNTY AIRPORT THAT HONORS HARRY SHAM FOR HIS AVIATION CONTRIBUTION TO THE COMMUNITY AND PROVIDES THE GENERAL PUBLIC WITH AN AIRPORT LOCATION IDENTIFICATION MEDIA.

WHEREAS, Modesto City-County Airport is the community airport providing commercial and general aviation services for community residents, and

WHEREAS, the airport is in need of a marquee sign to serve as a media for identifying the location of the airport and its services, and

WHEREAS, the City Manager has requested placing a sign at the airport that honors Harry Sham for his aviation contribution to the community, and

WHEREAS, the project was approved as part of the Modesto City-County Airport's Operating Budget for Fiscal Year 2002/2003, and

WHEREAS, Staff has recommended that the marquee sign be an illuminated sign placed at the Mitchell Road and Tenaya Drive intersection, and

WHEREAS, Staff further recommended the placement of a second sign at the intersection of Mitchell Road and Airport Way, if sufficient funding exists, and

WHEREAS, the members of the Airport Advisory Committee have considered the need for a marquee sign, and are in support of its placement, and

WHEREAS, the Council Economic Development Committee approved solicitation of a request for proposals for the project at its meeting on August 12, 2002.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves solicitation of a request for proposals to design, manufacture, and install an illuminated marquee sign at the Modesto City-County Airport at the intersection of Mitchell Road and Tenaya Drive, and placement for an additional sign at the intersection of Mitchell Road and Airport Way, if sufficient funding exists for the additional sign.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January 2003 by Councilmember Fisher who moved for its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote.

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by: Michael D. Milich
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-8

A RESOLUTION ACCEPTING THE PROJECT TITLED "2002 HANDICAP
RAMP CONSTRUCTION" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "2002 Handicap Ramp Construction", has been completed by BDS Construction, Inc., in accordance with the contract agreement dated July 9, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "2002 Handicap Ramp Construction" project be accepted from said contractor, BDS Construction, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$201,789 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-9**

**A RESOLUTION ACCEPTING THE BID OF REMEDIATION
CONSTRUCTORS, INC. FOR THE PROJECT TITLED "HILLSIDE DRIVE
EXTENSION"**

WHEREAS, the bids received for Hillside Drive Extension were opened at 11:00 a.m. on December 17, 2002, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$272,677 received from Remediation Constructors, Inc., be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of Remediation Constructors, Inc. be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By


MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-10**

**A RESOLUTION REJECTING THE BID AND CONTRACT FOR THE
PROJECT TITLED "VILLAGE ONE WEST BASIN ROAD IMPROVEMENTS"
AND RESCINDING RESOLUTION NO. 2002-560**

WHEREAS, the bids received for Village One West Basin Road Improvements were opened at 11:00 a.m. on October 29, 2002, and

WHEREAS, the low bidder was George Reed, Inc. at a price of \$899,333, and

WHEREAS, a contract was awarded to George Reed, Inc. by City Council on November 12, 2002, by Resolution No. 2002-560, and

WHEREAS, during the post award process, staff determined that the project was advertised as a non-prevailing wage project; therefore, staff recommends the bid and contract be rejected and the specifications be revised to include prevailing wages, and re-solicitation for this service be conducted at a later date,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for the Village One West Basin Road Improvements, opened in the office of the City Clerk on October 29, 2002, are hereby rejected.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the contract awarded to George Reed, Inc., for the Village One West Basin Road Improvements, is hereby nullified, and Resolution No. 2002-560 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM.

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-11**

**A RESOLUTION AWARDING A \$66,775 CONTRACT TO ASSOCIATED
ENGINEERING GROUP, INC. FOR ENGINEERING DESIGN SERVICES FOR
THE PROJECT TITLED "VILLAGE ONE STORM DRAINAGE
IMPROVEMENTS"**

WHEREAS, following a Request for Qualifications which was sent to all local engineering firms, six statements of qualifications were received for the Village One Storm Drainage Improvements Design and were submitted to the City, and

WHEREAS, a selection team decided all six firms were qualified to provide engineering design services, and

WHEREAS, the selection team decided that Associated Engineering Group, Inc., rated highest for storm drainage design, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Associated Engineering Group, Inc., be accepted as the most qualified engineering consulting firm for engineering design services for the "Village One Storm Drainage Improvements", and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Associated Engineering Group, Inc., in an amount not to exceed \$66,775,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the project titled "Village One Storm Drainage Improvements" to Associated Engineering Group, Inc., in an amount not to exceed \$66,775.

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 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-12**

**A RESOLUTION ACCEPTING THE BID OF BDS CONSTRUCTION, INC. FOR
THE PROJECT TITLED "2003 HANDICAP RAMP CONSTRUCTION"**

WHEREAS, the bids received for 2003 Handicap Ramp Construction were opened at 11:00 a.m. on December 3, 2002, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$277,673 received from BDS Construction, Inc., be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of BDS Construction, Inc. be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-13**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "VILLAGE ONE
WEST BASIN EXCAVATION" AS COMPLETE**

WHEREAS, on August 27, 2002, the City Council authorized the District Administrator to negotiate and execute a contract with Pacific Union Homes, Inc., for the excavation of the Village One West Basin; and

WHEREAS, on September 24, 2002, Community Facilities District No. 1996-1 (Village One) and Pacific Union Homes, Inc., entered into an agreement regarding the excavation of the Village One West Basin ("Village One West Basin Excavation"), and

WHEREAS, the Construction Administration Division of the Department of Engineering & Transportation has issued a memorandum stating that the work performed in connection with the agreement dated September 24, 2002, is complete and ready for acceptance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Village One West Basin Excavation project is hereby accepted from said contractor, Pacific Union Homes, Inc., that a Notice of Completion be issued by the District Engineer and the District Administrator and that payment of in the amount of \$306,075 be issued to Pacific Union Homes, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-14**

**A RESOLUTION AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS
WITH THE DEL RIO FOUNDATION TO BRING THE FIRST TEE PROGRAM
TO MUNI GOLF COURSE.**

WHEREAS, The First Tee Program is a national program formed in 1997 to promote the involvement of young people in golf and teach “life skills” as part of the curriculum, and

WHEREAS, in order to be chosen as a First Tee site, there are several requirements that must be met, the most important of which is that a non-profit organization, that has missions and values that match those of The First Tee Program, be in place to manage and administer the program, and

WHEREAS, the Del Rio Foundation was founded to carry out the purpose of fostering youth and amateur sports activity and competition in the greater valley region, and

WHEREAS, the Del Rio Foundation has expressed an interest in administering The First Tee program at Muni Golf Course, and

WHEREAS, the Safety and Communities Committee met on December 2, 2002, and supported the recommendation to enter into negotiations with the Del Rio Foundation to bring The First Tee Program to Muni Golf Course,

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 Del Rio Foundation to bring The First Tee Program to Muni Golf Course.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-15**

A RESOLUTION APPROVING A LEASE AGREEMENT RENEWAL FOR THE DOWNTOWN WATER TANK CELLULAR ANTENNA SITE AND LEASE AGREEMENT AMENDMENTS FOR CELLULAR ANTENNA/TOWER SITES AT BEYER, DAVIS, AND DOWNEY COMMUNITY PARKS WITH AT&T WIRELESS SERVICE OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT DOCUMENTS.

WHEREAS, the negotiation process with AT&T Wireless Service of California started in late January 2002 with AT&T's Request For Consent to complete antenna and communication facility upgrades at City sites covered by existing lease agreements, and

WHEREAS, during the review process, it was revealed that AT&T Wireless Service of California had not renewed the Downtown Water Tank lease agreement as required, and as a result, the City made a business decision to re-negotiate each lease agreement with compensation and language changes, and

WHEREAS, the compensation issues were: 1) monthly rental fee increases, and 2) installation of antenna and wireless connections for computer and cellular phones as a part of the "Communication Facilities" for exclusive use, without cost or obligation to the City, and

WHEREAS, the City has negotiated a renewed five-year lease agreement with AT&T Wireless Service of California for use of the Downtown Water Tank as a site for antennas and a communication facility, including: 1) the option for AT&T Wireless Service of California to extend lease agreement for a five-year term by giving written notice of intent prior to the lease agreement expiration, 2) increased compensation to the City for use of site from \$735.82 to \$1,600.00 per month, effective April 1, 2002, 3) collection of back rent from AT&T Wireless Service of California from April 2002,

through December 2002, in the amount of \$864.18 per month, 4) additional language in the hold harmless agreement holding the City harmless from any claims, including injury to person or wrongful death, for use of the water tower property, and 5) City's consent to upgrade antennas and communication facilities, and

WHEREAS, the City of Modesto and AT&T Wireless Service of California have negotiated amendments to these lease agreements, including: 1) a compensation increase at Beyer park site from \$1,090.00 to \$1,600.00 per month and at Davis and Downey park sites from \$1,327.62 to \$1,600.00 per month, effective April 1, 2002, 2) collection of back rent from April 2002, through October 2002, in the amount of \$510.00 per month for the Beyer park site and \$272.38 per month for the Downey park site, 3) collection of back rent from April 2002, through December 2002, in the amount of \$272.38 per month for the Davis park site, 4) City's consent to upgrade antennas and communication facilities, and 5) requirement that AT&T maintain landscaping in a commercially reasonable manner after completing any maintenance on cellular tower sites in these community parks, and

WHEREAS, the Safety and Communities Committee met on December 2, 2002, and supported the recommendation to approve a lease agreement renewal for the Downtown Water Tank cellular antenna site and lease agreement amendments for cellular antenna/tower sites at Beyer, Davis, and Downey Community Parks with AT&T Wireless Service of California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a lease agreement renewal for the Downtown Water Tank cellular antenna site and lease agreement amendments for cellular antenna/tower

sites at Beyer, Davis, and Downey Community Parks with AT&T Wireless Service of California.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-16**

**A RESOLUTION GRANTING THE APPEAL OF PAUL AND SUE THORPE TO
A PLANNING COMMISSION DECISION APPROVING THE MIRA LOMA
VESTING TENTATIVE SUBDIVISION MAP**

WHEREAS, Modesto Municipal Code Section 4-4.404 authorizes the Planning Commission to take action on proposed subdivision maps, and

WHEREAS, on April 29, 2002, SUTCO Construction/Ridge Sutter submitted an application for a vesting tentative subdivision map, Mira Loma, and

WHEREAS, the Planning Commission considered the application at their regularly scheduled meeting on August 26, 2002, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, on August 26, 2002, the Planning Commission denied the Mira Loma vesting tentative subdivision map due to inconsistency with the General Plan, because it did not provide for the connection of Encina Avenue, a designated collector street in the General Plan, and

WHEREAS, on September 3, 2002, SUTCO Construction/Ridge Sutter filed a revised vesting tentative subdivision map, Mira Loma, that provided a connection of Encina Avenue via Julian Avenue, and

WHEREAS, a public hearing was held by the Planning Commission on November 18, 2002, in the Tenth Street Place, Chambers, located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission by Resolution No. 2002-49 approved the revised vesting tentative subdivision map ("Map"), Mira Loma, because it was deemed consistent with the General Plan policy calling for collector streets to be offset within the interior of neighborhoods, and

WHEREAS, an appeal to the decision of the Planning Commission was filed with the Office of the City Clerk by letter from Paul and Sue Thorpe on December 2, 2002, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on Tuesday, January 7, 2003, at 5:30 p.m. in the Tenth Street Place

Chambers, located at 1010 Tenth Street, Modesto, California, 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 said appeal to the decision of the Planning Commission should be granted because the Map is inconsistent with the City's General Plan for the following reasons:

1. Encina is intended to be a collector street pursuant to the General Plan
2. The Map would have the effect of making Julian Street and a portion of Fusco Street into collector streets that are not so designated by the General Plan.
3. Policy III-C.2.e. (1) of the General Plan states that collector streets should provide direct linkages from the residences within a neighborhood to neighborhood facilities within the same neighborhood, such as schools, parks, etc., and a connection to peripheral arterials. The Map is inconsistent with the General Plan because the redirection of traffic from Encina to Fusco, Julian and Conejo Streets does not provide (1) a direct linkage via Encina from the residences to the east of the proposed subdivision to their neighborhood facilities, including but not limited to La Loma Junior High School and parks to the west, or (2) a direct connection via Encina from the residences to the west to the El Vista arterial.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Paul and Sue Thorpe to the decision of the Planning Commission approving the Mira Loma vesting tentative subdivision map is granted, and the decision of the Planning Commission is hereby overturned for the reasons set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, 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: Fisher, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Conrad, Frohman, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-17**

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(557) (REDEV, INC.)

WHEREAS, a verified application for an amendment to Section 6-3-9 of the Zoning Map was filed by Redev, Inc. on July 30, 2002, to reclassify from Specific Plan-Overlay Zone, to Planned Development Zone, P-D(557), to allow a medical office complex, property located on the northwest corner of Tully Road and Snyder Avenue, described as follows:

SP-O to P-D(557)

All that certain real property situated in a portion of the Southeast quarter of Section 6, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying within the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Parcel B as shown and designated on that certain Parcel Map filed in the Office of the County Recorder of Stanislaus County, California, on May 14, 1999 in Book 49 of Parcel Maps, at Page 49;

Including the Westerly portion of Tully Road West of the centerline of original 40 foot Tully Road and the North half of Snyder Avenue, all immediately adjacent to the above described property.

WHEREAS, after a public hearing held on December 2, 2002, 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. 2002-53, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed office development is consistent with the current land use designation for the site.
2. Conditions of approval will ensure compatibility with surrounding land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on January, 7 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Redev, Inc. 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. 2002-53 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3278-C.S. on the seventh day of January, 2003, reclassifying the above-described property from Specific Plan-Overlay Zone (SP-O), to Planned Development Zone, P-D(557).

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(557), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Proposed Office Complex: 4101 Tully Road" 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 Chief Building Official. Evergreen, screen landscaping shall be installed along the north and west property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
3. Fences or walls shall be constructed prior to occupancy and shall be as follows:
 - Six-foot-high wood fence with decorative masonry pilasters at 16-foot on centers along the west property line where the fence is adjacent to buildings.
 - Six-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on centers along the west property line where the fence is adjacent to parking or driveways.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.
7. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City standards and file the necessary information with the County Recorder's Office as required by AB1414.
8. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.
9. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
10. 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 stormwater 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.
11. The developer 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 arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. 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.

12. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.
13. All signs shall comply with the sign requirements of the P-O Zone.
14. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.
15. Prior to the issuance of a building permit the developer shall execute a Reciprocal Parking and Access Agreement which shall provide for mutual and reciprocal vehicular and pedestrian access and vehicular parking for the benefit of all six parcels. Said agreement shall be in a form approved by the City Attorney.
16. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(557):

The entire construction program be accomplished in one phase, construction to begin on or before January 7, 2005, and completion to be not later than January 7, 2006.

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(557), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

APPROVED AS TO LEGAL DESCRIPTION

By: [Signature]
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-18**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 93042004) RELATING TO THE APPROVAL OF THE PELANDALE- SNYDER SPECIFIC PLAN: REZONING OF 2.43 ACRES LOCATED ON THE NORTH-WEST CORNER OF SNYDER AVENUE AND TULLY ROAD FROM SPECIFIC PLAN- OVERLAY ZONE, (SP-O), TO PLANNED DEVELOPMENT ZONE, P-D(557) (REDEV, INC.)

WHEREAS, on January 16, 1996, by Resolution No. 96-22, the City Council of the City of Modesto certified the Final Environmental Impact Report (“EIR”) (SCH No. 93042004) for the Pelandale-Snyder Specific Plan, and

WHEREAS, Redev, Inc. has proposed that property located on the northwest corner of Tully Road and Snyder Avenue be rezoned from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(557), in the City of Modesto (“the project”) to allow for a medical office complex, and

WHEREAS, Section 21166 of the Public Resources Code provides that the lead agency not require a subsequent or supplemental EIR for a project where an EIR has already been certified, unless the lead agency finds that substantial changes are proposed that will require major revisions of the EIR, substantial changes have occurred with respect to the circumstances under which the project is being undertaken, or new information becomes available that would change the conclusions of the EIR, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2002-65 (“Initial Study”) reviewed the proposed amendment to the Zoning Map and rezone to P-D(557) project and made the determination that there are no substantial changes proposed in the project which will require major revisions in the Final EIR, that no substantial changes have occurred in the

circumstances under which the project is being undertaken, and that there is no new information that would change the conclusions of the Final EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on December 19, 2002, 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 Pelandale-Snyder Specific Plan EIR.

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 7, 2003, 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(557) 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. There are no substantial changes in the proposed Planned Development that will require major revisions of the Pelandale-Snyder Specific Plan Environmental Impact Report (SCH No. 93042004).
2. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions to the Pelandale-Snyder EIR.
3. No new information, which was not known and could not have been known at the time the Pelandale-Snyder Specific Plan EIR was certified as complete, has become available.

4. The Initial Study, Environmental Assessment EA/C&ED 2002-65, provides the substantial evidence necessary to support findings 2-4.
5. As per Section 21166 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

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 7th day of January, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

“Initial Study”

EA/C&ED 2002-65

City of Modesto
Initial Study

P-D - 4101 Tully

EA/C&ED 2002-65
November 18, 2002

I. PURPOSE

On January 16, 1996, the Modesto City Council certified the Final Environmental Impact Report for the Pelandale-Snyder Specific Plan (SCH# 93042004). This Final EIR analyzed the impacts of build-out of the Pelandale-Snyder Specific Plan, which includes the area in which this project is proposed.

Section 21166 of Public Resources Code allows the Pelandale-Snyder Specific Plan EIR to be used for subsequent projects, provided the following findings can be made:

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

II. PROJECT DESCRIPTION

- A. Project title:
P-D – 4101 Tully
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:
The northwest corner of Tully Road and Snyder Avenue.
- E. Project Sponsor:
Redev Inc., 2020 Standiford Avenue Ste. D-5, Modesto, Ca. 95350
- F. General Plan Designation:
Village (VR)
- G. Current Zoning:
Specific Plan-Overlay (SP-O) Zone

- H. Description of Proposed Project:
This is an application to rezone 2.43 acres from SP-O to P-D to allow for the development of a medical office complex made up of two buildings of 3,000 square feet and four buildings of 4,000 square feet and related parkway, parking and driveways.
- I. Surrounding land uses:
The project is bounded by existing single-family homes to the west, multi-family to the north, a currently-developing single-family subdivision to the east, and vacant land designated for multi-family development to the south.
- J. Other public agencies whose approval is required:
None.

III. ANALYSIS OF CONFORMANCE WITH SECTION 21166 FINDINGS

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report

Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of Pelandale-Snyder Specific Plan EIR, organized by impact sections in the EIR:

1. Land Use, Consistency with Plans and Policies, and Agriculture

Impacts to land use, consistency with plans and policies, and agriculture, are discussed on pages 33 through 41 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity, and would not convert any agricultural land not previously analyzed in the EIR. Therefore, there would be no substantial changes needed to the Land Use, Consistency with Plans and Policies, and Agriculture section of the EIR.

2. Population, Employment, and Housing

Impacts to population, employment, and housing are analyzed on pages 42 through 44 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Therefore, there would be no change needed to the impacts to population, employment, and housing analyzed in this section of the EIR.

3. Traffic and Circulation

Traffic and circulation impacts are analyzed on pages 45 through 94 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Furthermore, Engineering and Transportation staff have determined that the project will generate 81 peak-hour-trips, which is less than the 100-peak-hour-trip threshold of significance for further analysis under the Engineering and Transportation Department's Traffic Study Policy (attached) and that no additional traffic analysis is required. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR.

4. Noise

Noise impacts are analyzed on pages 95 through 109 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Therefore, there would be no change needed to the noise analyzed in this section of the EIR.

5. Air Quality

Impacts to air quality are analyzed on pages 110 through 126 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Therefore, the conclusions of the Pelandale-Snyder EIR in this impact area would not change, and there would be no change needed in this section of the EIR.

6. Biology

Impacts to biology are analyzed on pages 127 through 129 of the Pelandale-Snyder Specific Plan EIR. The EIR concluded that there were no significant biological impacts. The project will not impact any additional areas not already analyzed in the EIR. Therefore, there would be no change needed to the section of the EIR analyzing biological impacts.

7. Archaeology

Impacts to archaeology are analyzed on page 130 of the Pelandale-Snyder Specific Plan EIR. The project will not impact any additional areas not already analyzed in the EIR. Therefore, there would be no change needed to the section of the EIR analyzing archaeological impacts.

8. Public Services

Impacts to public services are analyzed on pages 131 through 136 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Furthermore, the project was referred to affected public agencies for comments. None of the agencies indicated that there are any issues with regard to services needed to serve the proposed development. Therefore, there would be no change needed to the impacts to public services analyzed in the EIR.

9. Hydrology and Drainage

Hydrology and drainage are analyzed on pages 137 through 141 of the Pelandale-Snyder Specific Plan EIR. The project will not affect the conclusions reached in the EIR regarding hydrology and drainage, as the project will continue to provide storm drainage consistent with the Specific Plan.

10. Growth Inducing Impacts

Growth-inducing impacts are analyzed on page 142 of the Pelandale-Snyder Specific Plan EIR. The project is consistent with the Specific Plan in land use and intensity. Therefore, there would be no change needed to the analysis of growth-inducing impacts in the EIR.

11. Geology/Soils

Impacts to geology and soils are analyzed on pages 143 through 144 of the Pelandale-Snyder Specific Plan EIR. The project will not impact any additional areas not already analyzed in the EIR. Therefore, there would be no change needed to the section of the EIR analyzing impacts to soils and geology.

- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Pelandale-Snyder Specific Plan EIR was certified by the Modesto City Council on January 16, 1996. In the period since then, the City Council has approved the Carver-Bangs and Kiernan Business Park Specific Plans for development immediately to the north of the Pelandale-Snyder Specific Plan. However, this development was consistent with the City's General Plan, and was therefore assumed in the analysis of the Pelandale-Snyder Specific Plan EIR. Therefore, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Pelandale-Snyder Specific Plan EIR.

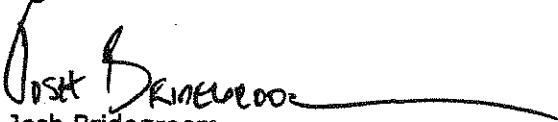
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Pelandale-Snyder Specific Plan EIR was certified by the Modesto City Council on January 16, 1996. In the intervening period, there has been no new information, which was not known at the time the Pelandale-Snyder Specific Plan EIR was certified, has become available, that would change the conclusions of the EIR.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. There are no substantial changes proposed in the project which will require major revisions of the Pelandale-Snyder Specific Plan EIR.
- B. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Pelandale-Snyder Specific Plan EIR.
- C. No new information, which was not known and could not have been known at the time the Pelandale-Snyder Specific Plan EIR was certified as complete, has become available.
- D. This initial study provides substantial evidence to support findings A, B and C, above.

Signature:



Josh Bridegroom,
Assistant Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-19**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING THE ISSUANCE OF CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY REVENUE BONDS (SUTTER HEALTH), SERIES 2003 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$115,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, IMPROVEMENT AND EQUIPPING OF MEMORIAL HOSPITALS ASSOCIATION AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, Sutter Health, a California nonprofit public benefit corporation (the "Corporation"), has requested that the California Statewide Communities Development Authority (the "Authority") participate in the issuance of revenue bonds in an aggregate principal amount not to exceed \$115,000,000 (the "Bonds") for the acquisition, improvement and equipping of the medical, education and research facilities known as Memorial Hospitals Association (the "Facilities") to be owned and operated by the Corporation (or an affiliate of the Corporation) and located within the City of Modesto (the "City") and other facilities located outside of the City; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), the issuance of the Bonds by the Authority must be approved by the City because the Facilities are located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the applicable elected representatives required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 9 of the Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies, including the City; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority;

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

Section 1. The City Council hereby approves the issuance of the Bonds by the Authority for the purposes of acquiring, improving and equipping the Facilities. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Facilities are located, in accordance with said Section 147(f) and (b) Section 9 of the Agreement.

Section 2. The officers of the City 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 deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 3. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-20A**

**A RESOLUTION ADOPTING THE VILLAGE ONE FACILITIES
PRIORITIZATION LIST AND ESTABLISHING POLICIES WITH RESPECT TO
ADMINISTRATION OF THE VILLAGE ONE FACILITIES PRIORITIZATION
LIST**

WHEREAS, on January 7, 2003 staff presented a Village One Facilities Prioritization List ("Facilities Prioritization List") to the City Council for consideration, and

WHEREAS, said Facilities Prioritization List will provide residents a blueprint showing where and in what order CFD-funded projects will be constructed, and

WHEREAS, said Facilities Prioritization List will allow construction of the CFD-funded facilities to be tied to the community's needs, and

WHEREAS, said Facilities Prioritization List will allow staff to schedule construction of the identified projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Village One Facilities Prioritization List, attached hereto as **Exhibit "A"**, is hereby adopted.

BE IT FURTHER RESOLVED that the following Facilities Prioritization List policy guidelines are hereby adopted:

1. Until all projects within a higher priority, with Priority 1 being the highest priority, (i) have been constructed by Community Facilities District No. 1996-1 ("CFD"), (ii) have been constructed by a third party, pursuant to a contract executed with the CFD, and reimbursement has been paid to said third party, or (iii) funds have been reserved to construct the remaining projects within said priority, no projects within a lower priority shall be constructed by the CFD, no reimbursement shall be paid to a third party for construction of lower priority work and no funds shall be reserved for lower priority work.

2. A third party due reimbursement from the CFD, pursuant to an executed contract with the CFD, shall be placed in position, within a priority, based upon the date the Notice of Completion is issued for the work performed under said contract.
3. The City Council may, by subsequent action of the City Council, move a project or projects from one priority to another priority.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2003, by Councilmember Fisher who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**Village One Projects (All or Partially Funded by the CFD)
Facilities Priority List
Priorities 1 & 2**

Updated 12/09/02 per revised Harris FMP

Priority 1 Facilities		
FMP #	Facility	Cost
SD-300	Bear Cub Lane, Kodiak Drive, Hillglen Avenue - West Basin and Ustach Park frontage	\$1,213,700.00
SD-201	West Basin fencing of lower tier	\$37,800.00
SD-202	West Basin Inlet Structures - 410' of 90" CIPCP, 50' of 48" RCP, 570' of 78" RCP, Inlet structure	\$753,800.00
SD-203	West Basin Inlet Structures - 110' of 66" RCP, Inlet structure	\$101,800.00
PK-003A	Ustach Park Phase 1 & 2 Park Construction	\$394,800.00
SD-204	West Basin forebay and low flow channel	\$54,000.00
SD-205	Hillglen Ave. 60" RCP from Roselle to Esta	\$608,700.00
SD-206	Central Basin Inlet Structures and energy dissipator (for 30" RCP and 24" FM)	\$108,000.00
SD-207	Force Main from West Basin to Central Basin (7000' of PVC FM (C-905) per CDM plan)	\$1,051,700.00
SD-209	West Basin Pump Station	\$507,600.00
SD-210	Central Basin Pump Station, FM to MID canal and completion of basin(maintenance road, low flow channel, etc.)	\$529,200.00
SD-211	Central Basin Property-Payback to SD fund	\$634,800.00
INT-010	Sylvan & Roselle Intersection - Intersection Control & Road Widening	\$1,803,000.00
RD-002	Sylvan Avenue - South side in front of Symphony Park (requires condemnation of 2 homes) (ROW 02/03)	\$769,000.00
INT-009	Roselle & Floyd Intersection Control & Road Widening	\$1,899,000.00
RD-007	Floyd Avenue - North side between Oakdale and Roselle	\$3,721,000.00
RD-006	Pedestrian Overcrossing (Design 03/04)	\$1,542,000.00
RD-004A	Sylvan Avenue - South side between Roselle and Millbrook (ROW 03/04)	\$608,000.00
RD-004B	Sylvan Avenue - North side between Roselle and property line between Grogan Park and High School (ROW 03/04)	\$1,236,000.00
RD-017A	Storm Drainage on Arterial Streets (proportionate share)	\$909,800.00
M-001A	Planning Recoup(1/4 of total)	\$189,750.00
Priority 1 Total:		\$18,673,450.00

Priority 2 Facilities		
FMP #	Facility	Cost
PK-005A	Merle Park Street Improvements (Half width along Park)	\$302,600.00
RD-008	Floyd Avenue - Full width between Roselle and Millbrook (not including Lawson property frontage)	\$1,773,000.00
RD-009	Floyd Avenue - Full width between Millbrook and Fine	\$2,631,000.00
SD-212	700' of 30" RCP from Merle to Central Basin (C-107 to basin)	\$99,200.00
SD-228	Merle Avenue - Central Basin frontage	\$129,600.00
INT-007	Roselle & Merle Intersection Control & Road Widening	\$275,000.00
RD-014	Roselle Ave.- Briggsmore to Merle (median closure)	\$23,000.00
PK-003B	Ustach Park Phase 3,4 & 5 Park Construction	\$225,000.00
SD-214	Landscape West Basin per RHAA plan	\$1,501,200.00
SD-218	800' of 24"RCP (C-165 to C-109, CDM Report) Merle Park to Merle	\$90,700.00
SD-224	1100' of 36" RCP (W-107 to W-105, CDM Report) Kodiak	\$187,100.00
SD-225	1600' of 48" RCP (W-105 to W-101, CDM Report) Kodiak	\$362,900.00
SD-227	201' of 42" CIPCP at Floyd and Fine	\$40,700.00
SD-216	6 AC-ft Retention basin on Merle Park	\$67,500.00
INT-005	Oakdale & Floyd	\$1,333,000.00
PK-005B	Merle Park Phase 1 & 2 Park Construction	\$472,100.00
RD-017A	Storm Drainage on Arterial Streets (proportionate share)	\$469,000.00
M-001B	Planning Recoup (1/4 of total)	\$189,750.00
Priority 2 Total:		\$10,172,350.00

**Village One Projects (All or Partially Funded by the CFD)
Facilities Priority List
Priorities 3, 4, 5 & 6**

Updated 12/09/02 per revised Harris FMP

Priority 3 Facilities		
FMP#	Facility	Cost
SD-213	East Basin Property Acquisition	\$1,500,000.00
SD-217	1200' of 36" RCP overflow line from Fine to Merle Park	\$204,100.00
PK-004A	Claus Park Street Improvements (Half width along Park)	\$415,100.00
RD-015	Roselle Avenue - between Sylvan & Floyd	\$2,925,000.00
INT-008	Roselle & Belharbour Intersection Control & Road Widening	\$587,000.00
PK-005C	Merle Park Phase 3,4 & 5 Park Construction	\$175,000.00
INT-004	Oakdale & Road G Intersection Control & Road Widening	\$686,000.00
INT-002	Sylvan & Litt Intersection Control & Road Widening	\$754,000.00
PK-004B	Claus Park Phase 1 & 2 Park Construction	\$375,800.00
INT-003	Sylvan & Aria Intersection Control & Road Widening	\$689,000.00
INT-011	Claus & Sylvan Intersection Control & Road Widening	\$835,000.00
RD-017A	Storm Drainage on Arterial Streets (proportionate share)	\$503,300.00
M-001C	Planning Recoup (1/4 of total)	\$189,750.00
Priority 3 Total:		\$9,839,050.00

Priority 4 Facilities		
FMP #	Facility	Cost
RD-010	Floyd Avenue - Full width between Fine and Claus	\$1,762,000.00
RD-012	Oakdale Road - Widening between Floyd and Road G	\$1,068,000.00
RD-001A	Sylvan Avenue - South side between Oakdale Rd. and Wood Sorrell	\$1,183,000.00
RD-003	Sylvan Avenue - North side between Aria and Roselle	\$1,689,000.00
RD-001B	Sylvan Avenue - North side between Oakdale and Aria	\$1,472,000.00
RD-005	Sylvan Avenue - North Side between Litt and Claus	\$1,201,000.00
INT-001	Sylvan & Oakdale	\$2,343,000.00
RD-013	Oakdale Road - Road G to Sylvan	\$897,000.00
INT-006	Oakdale and Briggsmore modification	\$84,000.00
M-001D	Planning Recoup (1/4 of total)	\$189,750.00
RD-017A	Storm Drainage on Arterial Streets (proportionate share)	\$911,900.00
RD-011	Oakdale Road - Briggsmore to Floyd	\$35,000.00
Priority 4 Total:		\$12,835,650.00

Priority 5 Facilities		
FMP#	Facility	Cost
RD-016	Roselle Avenue - Full width between Sylvan to northern City limit (high school will do some of these improvements)	\$1,968,000.00
SD-219A	East Basin Construction	\$2,025,000.00
SD-219B	East Basin Landscaping	\$2,352,200.00
SD-215	7 AC-ft Retention basin on Grogan Park	\$81,000.00
SD-220	Claus Rd. trunk line from Floyd to East Basin	\$2,700,000.00
SD-223	850' of 30" RCP (W-21 - W-22, CDM Report) Hillglen	\$120,500.00
SD-221	East Basin Pump Station and completion of basin	\$540,000.00
PK-001B	Grogan Park Phase 1 & 2 Park Construction	\$6,051,300.00
PD-001	Police Substation - Tenant Improvements	\$27,500.00
SD-229	Force Main from East Basin to Claus Rd. line	\$135,000.00
RD-017A	Storm Drainage on Arterial Streets (proportionate share)	\$155,000.00
SD-222	Force Main from Central Basin to Claus Rd. line	\$540,000.00
Priority 5 Total:		\$16,695,500.00

Priority 6 Facilities (Unlikely To Be Funded From CFD)		
FMP#	Facility	Cost
	Claus Road -Gas Line Relocation	CFF
PK-001C	Grogan Park Phase 3 & 4 Construction	\$4,131,500.00
PK-007	Claus Urban Expressway Trail	\$3,628,600.00
M-002	Monumentation & Signage	\$500,000.00
PK-006	Bike Trail - MID Lat. #3	\$1,479,100.00
PK-002	Buffer	\$213,100.00
Priority 6 Total:		\$9,952,300.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-20**

**A RESOLUTION DESIGNATING COUNCILMEMBER FROHMAN 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 Frohman 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 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-21**

**A RESOLUTION REAPPOINTING 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 9, 2002, and recommended its approval to reappoint 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. RICH ROSA is hereby reappointed to the Airport Advisory Committee 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 reappointed 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 7th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-22**

**A RESOLUTION REAPPOINTING CLEOPATHIA MOORE 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 9, 2002, and recommended its approval to reappoint CLEOPATHIA MOORE 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. CLEOPATHIA MOORE is hereby reappointed to the Citizens Housing & Community Development Committee 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 reappointed member of the Citizens Housing & Community Development 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 January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-23**

**A RESOLUTION REAPPOINTING CHESTER GRAHAM 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,

WHEREAS, the Economic Development Committee met on December 9, 2002, and recommended its approval to reappoint CHESTER GRAHAM 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. CHESTER GRAHAM is hereby reappointed to the Citizens Advisory Committee on Recycling 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 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 7th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-24**

**A RESOLUTION REAPPOINTING JANE FENTON AND THOMAS STONE 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,

WHEREAS, the Economic Development Committee met on December 9, 2002, and recommended its approval to reappoint JANE FENTON and THOMAS STONE to the Culture Commission,

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

SECTION 1. JANE FENTON and THOMAS STONE are hereby reappointed to the Culture Commission with term expirations of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members 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 January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-25**

**A RESOLUTION REAPPOINTING HORACE HENLINE, CHARLES BEHR
AND MIKE BURNS 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,

WHEREAS, the Economic Development Committee met on December 9, 2002, and recommended its approval to reappoint HORACE HENLINE, CHARLES BEHR and MIKE BURNS to the Golf Courses Advisory Committee.

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

SECTION 1. HORACE HENLINE, CHARLES BEHR and MIKE BURNS are hereby reappointed to the Golf Courses Advisory Committee with term expirations of January 1, 2007.

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 7th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-26**

**A RESOLUTION REAPPOINTING ANDREW MENDLIN 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,

WHEREAS, the Economic Development Committee met on December 9, 2002, and recommended its approval to reappoint ANDREW MENDLIN to the Planning Commission.

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

SECTION 1. ANDREW MENDLIN is hereby reappointed to the Planning 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 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 7th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-27**

**A RESOLUTION REAPPOINTING MARGARET LEAMAN, MARY GROGAN
AND DAVE GIANELLI 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,

WHEREAS, the Economic Development Committee met on December 9, 2002, and recommended its approval to reappoint MARGARET LEAMAN, MARY GROGAN and DAVE GIANELLI 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. MARGARET LEAMAN, MARY GROGAN and DAVE GIANELLI are hereby reappointed to the Tuolumne River Regional Park Citizens Advisory Committee with term expirations of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members 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 January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-28**

**A RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR
PROPOSALS FOR EXTERNAL AUDIT SERVICES, TO PERFORM THE CITY
OF MODESTO ANNUAL FINANCIAL STATEMENT AUDITS.**

WHEREAS, the Charter of the City of Modesto requires the Modesto City Council to employ independent auditors to perform an annual financial audit of the City, and

WHEREAS, the Modesto City Council has, in Resolution 2000-376, delegated the selection process for said auditors to its Audit Committee, and

WHEREAS, the Audit Committee of the Modesto City Council recommends that the City of Modesto obtain proposals from audit firms for performing the annual financial audits, and

WHEREAS, the independent auditors who have performed these audits for the past seven years have reached the end of their contract term, and

WHEREAS, the independent auditors who have performed the audits the past seven years have also performed consulting services for the City of Modesto that disqualify them to continue performing the audits, under the new independence standards of the Government Auditing Standards,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Audit Committee to issue a Request for Proposals to solicit proposals from independent audit firms for audit services to perform the annual financial audits.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-29**

**A RESOLUTION APPROVING THE FORMATION OF CITIZEN CORPS AND
COMMUNITY EMERGENCY RESPONSE TEAMS (CERT)**

WHEREAS, the Federal Emergency Management Agency supports local homeland security efforts, and

WHEREAS, Citizen Corps activities, including Community Emergency Response Teams (CERT), is a program that trains individual citizens in emergency response skills, and

WHEREAS, the Citizen Corps' and CERT program's mission is to make communities safer, stronger and better prepared to respond to threats of terrorism, public health issues, and disasters of all kinds by engaging individuals in emergency preparedness and response education, training, and volunteer service, and

WHEREAS, the purpose is to have all citizens better prepared to respond to disasters of all kinds and a nation prepared; and

WHEREAS, the Safety and Communities Committee met on January 6, 2003, to review this recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the formation of a Citizen Corps and Community Emergency Response Teams (CERT) program in Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-30**

**A RESOLUTION APPROVING THE APPLICATION FOR FEDERAL
EMERGENCY MANAGEMENT AGENCY, OFFICE OF NATIONAL
PREPAREDNESS FY 2002 SUPPLEMENTAL APPROPRIATION GRANT FOR
CITIZEN CORPS AND CERT APPLICATION FOR ASSISTANCE**

WHEREAS, the Federal Emergency Management Agency Region IX has notified the governors' offices of California, Hawaii, and Nevada that their states will receive grants from a total of \$2.7 million available to support local homeland security efforts, and

WHEREAS, the funds are available to support Citizen Corps activities, including the formation of Citizen Corps Council and expansion of FEMA's Community Emergency Response Teams (CERT), and

WHEREAS, the Citizen Corps' mission is to make communities safer, stronger and better prepared to respond to threats of terrorism, public health issues, and disasters of all kinds by engaging individuals in emergency preparedness and response education, training, and volunteer service, and

WHEREAS, the Community Emergency Response Teams (CERT) program trains individual citizens in emergency response skills, and

WHEREAS, the purpose is to have all citizens better prepared to respond to disasters of all kinds and a nation prepared, and

WHEREAS, the City desires to apply for grant funding to provide CERT training which will consist of both classroom and hands-on instruction to citizens in the community, and

WHEREAS, THE Safety and Communities Committee met on January 6, 2003, to review this recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the filing of an application for Federal Emergency Management Agency, Office of National Preparedness FY 2002 Supplemental Appropriations Grant for Citizen Corps and CERT Application for Assistance.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager as the agent of the City to execute and submit all documents, which may be necessary for the completion of the grant application.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-31**

**A RESOLUTION AMENDING THE FISCAL YEAR 2002-03 CAPITAL
IMPROVEMENT PROJECTS (CIP) BUDGET TO RE-APPROPRIATE FUNDS
FOR PROJECTS APPROVED, BUT NOT COMPLETED.**

WHEREAS, from time to time, the City Council authorizes funding to the CIP Budget to complete specific major projects, and

WHEREAS, construction of the Wastewater Collections Building, an approved Capital Improvement Project, was designed in two phases, and

WHEREAS, the first phase utilized FEMA funding from the 1997 floods prior to the funding expiration date, and

WHEREAS, the first phase has been successfully completed, and

WHEREAS, staff now desires to complete phase two of the project, however, the current balance remaining in the account, \$392,902.43, is not enough to complete the job, and

WHEREAS, there are some CIP projects that have been completed, however, their accounts remain open, because funds are still present and,

WHEREAS, staff would like to close the below mentioned accounts and transfer the remaining balances totaling \$220,301.00 back to their respective Fund Reserve account (6210-800-8000-8003) and,

WHEREAS staff recommends then appropriate the amount of \$220,301.00 from the Sewer Operations Fund Reserve account plus an additional \$154,067.78 from the Sewer Operating Reserve Funds to complete the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2002-03 CIP to:

Close out and re-appropriate to the Sewer Operations Fund Reserve (6210-800-8000-8003)

621-480-E557	Parallel Outfall Siphon/Toulumne	\$25,730.16
621-440-K010	Kiernan Business Park Subtruck	\$ 9,196.47
621-440-K003	Sludge Drying Bed Rehab	\$14,451.53
621-440-K690	Clarifier Control Box Rehab	\$ 8,829.99
621-440-K736	Co-Compost Facility Exit	\$ 1,340.43
621-440-K684	Replace Sutter Sewer	\$ 12,449.31
621-480-H011	Co-Compost Facility	\$ 8,077.04
621-480-H386	North Trunk to Kiernan Business	\$81,785.42
621-480-H818	Beyer Subtrunk Project	\$ 8,634.97
6210-480 L079	Pond Control Room Lab, Office	\$ 8,808.57
6210-480-N028	Sewer Replacement	\$37,717.94
623-480-H866	Pipeline Rehabilitation	\$ 1,705.94
623-480-H867	Dryden Relief Line	\$ 0.81
623-480-H868	Headworks and Grit Removal	\$ 1.69
623-480-J629	Industry Waste Billing Software	\$ 1,571.00

BE IT FUTHER RESOLVED by the Council of the City of Modesto that it hereby approves transferring \$374,369.05 from the Sewer Operations Reserve fund) to the CIP project Wastewater Collections Maintenance Building account 621-480-F743.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-32**

A RESOLUTION APPROVING A \$179,380 AGREEMENT WITH THOMPSON-HYSELL ENGINEERS FOR ENGINEERING DESIGN SERVICES FOR THE PROJECTS TITLED “PELANDALE INTERSECTION IMPROVEMENTS AND PRESCOTT/SNYDER TRAFFIC SIGNAL” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, following a Request for Qualifications for engineering design services, which was sent to all local engineering firms, six statements of qualifications were received for the Pelandale Intersection Improvements including the Prescott/Snyder Traffic Signal Design, and were submitted to the City, and

WHEREAS, the City’s Selection Committee decided all six firms were qualified to provide engineering design services, and

WHEREAS, the Selection Committee decided that Thompson-Hysell Engineers rated highest for traffic signal and intersection improvement design, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Thompson-Hysell Engineers, be accepted as the most qualified engineering consulting firm to provide the necessary design services, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Thompson-Hysell Engineers, in an amount not to exceed \$179,380,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement for engineering design services with Thompson-Hysell Engineers, in an amount not to exceed \$179,380 for the projects titled “Pelandale Intersection Improvements” and “Prescott/Snyder Traffic Signal”.

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 January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-33**

A RESOLUTION ACCEPTING A GRANT AWARD FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR CONDUCTING THE NINTH STREET STORM DRAIN DESIGN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL GRANT APPLICATIONS AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the City of Modesto has applied for Federal funds to complete its design of the Ninth Street Storm Drain Replacement, and

WHEREAS, the U.S. EPA has approved the City's application for Federal funds to develop this design for up to and not exceeding \$242,500, and

WHEREAS, the City of Modesto must follow administrative conditions to receive grant funding including using Federal funds for project approved expenses, agreeing to comply with Minority Business Enterprise/Women Business Enterprise (WBE/WBE) terms and conditions, and following EPA grant program financial accounting procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Grant Agreement XP 97920801-0 from the U.S. EPA for \$242,500.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the necessary applications, grant agreements, financial and accounting forms and other documents required by EPA regulations for the City of Modesto to receive payment and report on financial transactions during this EPA supported project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-34**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO APPROPRIATE ADDITIONAL REVENUE FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AND TO REDUCE GENERAL FUND COMMITMENTS TO THE NINTH STREET STORM DRAIN DESIGN.

WHEREAS, the City Council has previously accepted a U.S. EPA Grant of \$242,500 for the preparation of a Design for the Ninth Street Storm Drain (XP-97920801-0), and

WHEREAS, the City Council has amended the Fiscal Year 2001-2002 Annual Capital Improvement Project Budget to include this project on June 16, 2002, and

WHEREAS, the City Council budgeted \$500,000 of General Fund Reserve to fund this project.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to amend the current Fiscal Year 2002-2003 Capital Improvement Project budget for Design for the Ninth Street Storm Drain (1) to increase the amount of EPA grant revenue to \$242,500 (6280-430-N686-3601) and (2) to decrease the general fund support of this project from \$500,000 to \$257,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-35**

**A RESOLUTION AWARDING A \$430,509 CONTRACT TO BOYLE
ENGINEERING CORPORATION FOR ENGINEERING DESIGN SERVICES
FOR THE PROJECT TITLED "NINTH STREET STORM DRAIN DESIGN"
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.**

WHEREAS, following a Request for Qualifications which was sent to 78 engineering firms, eleven Statements of Qualifications were received for the Ninth Street Storm Drain Design, and

WHEREAS, the City's Selection Committee chose four firms which were sent a Request for Proposals, and four proposals were received from said firms, and

WHEREAS, the proposals and interviews for the engineering design services for said project were rated by the Selection Committee, and Boyle Engineering Corporation was rated highest, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Boyle Engineering Corporation, be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Boyle Engineering Corporation, in an amount not to exceed \$430,509, for the engineering design services for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the project titled "Ninth Street Storm Drain Design" to Boyle Engineering Corporation, in an amount not to exceed \$430,509.

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 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-36**

**A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND
RELEASE OF ALL CLAIMS WITH DAVANTE VILLAS, A CALIFORNIA
LIMITED PARTNERSHIP AND ROBERT CALCAGNO REGARDING
REIMBURSEMENT FOR EXCAVATION OF THE VILLAGE ONE CENTRAL
BASIN AND AUTHORIZING THE CITY MANAGER AND THE DISTRICT
ADMINISTRATION TO EXECUTE SAID AGREEMENT**

WHEREAS, on July 14, 1998 the City of Modesto and Robert D. Calcagno entered into a "CFD Credit Agreement" regarding excavation and removal of 5,400 cubic yards from the Central storm drainage basin in Village One, and

WHEREAS, in September 1998 an amendment was executed reducing the rate of credit from \$8.015 per cubic yard to \$6.00 per cubic yard + 14.5% contingency, and

WHEREAS, in July 2001 Robert D. Calcagno assigned his right to reimbursement to Davante Villas, a California Limited Partnership ("Davante Villas"), and

WHEREAS, the CFD Engineer determined that Davante Villas was entitled to reimbursement for 3,200 cubic yards, and

WHEREAS, Davante Villas received a reimbursement check in the amount of \$26,881.27 (3,200 cubic yards @ \$6.00/cubic yard + 13.875% contingency + annual COLA adjustments), and

WHEREAS, there was a disagreement as to the total amount of cubic yardage for which Davante Villas should have been reimbursed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a settlement has been reached whereby Davante Villas will receive reimbursement for an additional 2,200 cubic yards at the rate of \$5.00 per cubic yard.

BE IT FURTHER RESOLVED that the "Settlement Agreement And Release Of All Claims" between the City of Modesto, Community Facilities District No. 1996-1 (Village One), Davante Villas, a California Limited Partnership and Robert Calcagno is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, and the District Administrator, or his designee, are 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 7th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-37**

**A RESOLUTION REJECTING THE BID FOR THE PROJECT TITLED
“BOWEN AVENUE ROUNDABOUTS” AND DIRECT WORK TO BE
PERFORMED BY CITY FORCES FOR AN AMOUNT NOT TO EXCEED
\$150,000**

WHEREAS, the bids received for Bowen Avenue Roundabouts were opened at 11:00 a.m. on August 20, 2002, 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 allow staff to proceed with construction up to \$150,000 using City forces,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for Bowen Avenue Roundabouts, opened in the office of the City Clerk on August 20, 2002, are hereby rejected.

BE IT FURTHER RESOLVED staff is hereby directed to proceed with construction up to \$150,000 using City forces.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-38**

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN IMPROVEMENT TO REAL PROPERTY FROM VIACOM OUTDOOR AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE NINTH STREET BRIDGE REPLACEMENT PROJECT IMPROVEMENT TO REAL PROPERTY LOCATED ON APN 102-18-01 (IMPROVEMENT OWNED BY VIACOM OUTDOOR)

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain improvement to real property, consisting of an outdoor advertising sign structure, more particularly described and depicted in Exhibits “A” and “B”, attached hereto and made a part hereof by reference, in order to implement the Ninth Street Bridge Replacement Project (the “Project”), and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19, of the Constitution of the State of California, and the California Eminent Domain Law, California Code of Civil Procedure Section 1230.010, et seq., and pursuant to Section 37350.5 of the Government Code of California, 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, all of whom have been given a reasonable opportunity to appear and be heard before the Modesto City Council 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;
and
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

WHEREAS, the hearing set out in the notice was held on January 14, 2003 at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed. Based upon the evidence presented, the Council by vote of two-thirds or more of its members, further FINDS, DETERMINES, RESOLVES AND ORDERS as follows:

1. The public interest and necessity require the Project;
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 improvement to real property more particularly described in said Exhibits "A" and "B" is necessary for the Project;
4. 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;
5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein have been complied with by the City of Modesto;
6. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith
7. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and empowered to deposit with the State

Treasury Condemnation Fund the probable amount of compensation, based on an appraisal, and to apply to the Court for an order of prejudgment possession of the subject property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

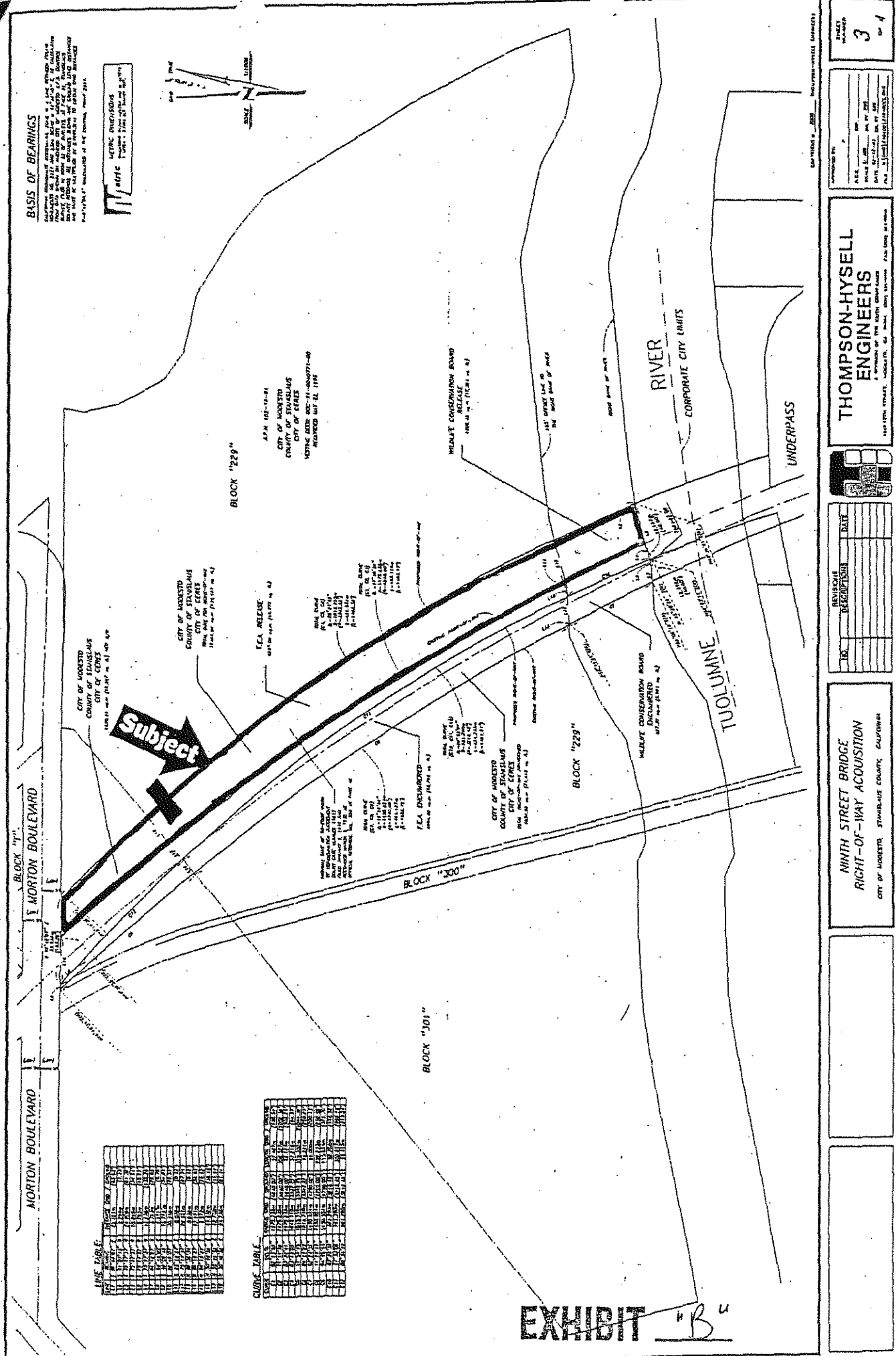
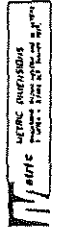
Approved as to Form: Michael D. Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

The property to be acquired from Viacom Outdoor is the outdoor advertising sign structure identified as sign number 006997 and located on that certain real property situated in the County of Stanislaus, State of California and identified by Stanislaus County Assessor as Assessor's Parcel Number 102-18-01..

BASIS OF BEARINGS

Reference is made to the fact that the bearings and distances shown on this plan were obtained from the original survey records of the City of Modesto, California, and are correct as shown on the original records. The bearings and distances shown on this plan are correct as shown on the original records.



LINE TABLE

LINE NO.	BEARING	DISTANCE	REMARKS
1	N 89° 15' 00" E	100.00	...
2	S 89° 15' 00" E	100.00	...
3	S 00° 00' 00" E	100.00	...
4	N 89° 15' 00" W	100.00	...
5	S 89° 15' 00" W	100.00	...
6	S 00° 00' 00" W	100.00	...
7	N 89° 15' 00" E	100.00	...
8	S 89° 15' 00" E	100.00	...
9	S 00° 00' 00" E	100.00	...
10	N 89° 15' 00" W	100.00	...
11	S 89° 15' 00" W	100.00	...
12	S 00° 00' 00" W	100.00	...
13	N 89° 15' 00" E	100.00	...
14	S 89° 15' 00" E	100.00	...
15	S 00° 00' 00" E	100.00	...
16	N 89° 15' 00" W	100.00	...
17	S 89° 15' 00" W	100.00	...
18	S 00° 00' 00" W	100.00	...
19	N 89° 15' 00" E	100.00	...
20	S 89° 15' 00" E	100.00	...
21	S 00° 00' 00" E	100.00	...
22	N 89° 15' 00" W	100.00	...
23	S 89° 15' 00" W	100.00	...
24	S 00° 00' 00" W	100.00	...
25	N 89° 15' 00" E	100.00	...
26	S 89° 15' 00" E	100.00	...
27	S 00° 00' 00" E	100.00	...
28	N 89° 15' 00" W	100.00	...
29	S 89° 15' 00" W	100.00	...
30	S 00° 00' 00" W	100.00	...

CURVE TABLE

STATION	CHORD BEARING	CHORD DISTANCE	CHORD AREA
1	N 89° 15' 00" E	100.00	...
2	S 89° 15' 00" E	100.00	...
3	S 00° 00' 00" E	100.00	...
4	N 89° 15' 00" W	100.00	...
5	S 89° 15' 00" W	100.00	...
6	S 00° 00' 00" W	100.00	...
7	N 89° 15' 00" E	100.00	...
8	S 89° 15' 00" E	100.00	...
9	S 00° 00' 00" E	100.00	...
10	N 89° 15' 00" W	100.00	...
11	S 89° 15' 00" W	100.00	...
12	S 00° 00' 00" W	100.00	...
13	N 89° 15' 00" E	100.00	...
14	S 89° 15' 00" E	100.00	...
15	S 00° 00' 00" E	100.00	...
16	N 89° 15' 00" W	100.00	...
17	S 89° 15' 00" W	100.00	...
18	S 00° 00' 00" W	100.00	...
19	N 89° 15' 00" E	100.00	...
20	S 89° 15' 00" E	100.00	...
21	S 00° 00' 00" E	100.00	...
22	N 89° 15' 00" W	100.00	...
23	S 89° 15' 00" W	100.00	...
24	S 00° 00' 00" W	100.00	...

DATE: 10/15/2024
 DRAWN BY: J. H. HYSSELL
 CHECKED BY: J. H. HYSSELL
 PROJECT NO.: 24-001
 SHEET NO.: 3 OF 4

THOMPSON-HYSSELL ENGINEERS
 1000 1/2 ST. STREET, SACRAMENTO, CALIF. 95811
 TEL. 485-1111 FAX 485-1112

REVISIONS

NO.	DESCRIPTION	DATE

NINTH STREET BRIDGE RIGHT-OF-WAY ACQUISITION
 CITY OF MODesto, STANISLAUS COUNTY, CALIFORNIA

EXHIBIT "B"

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-39**

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN IMPROVEMENT TO REAL PROPERTY FROM VIACOM OUTDOOR AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE NINTH STREET BRIDGE REPLACEMENT PROJECT IMPROVEMENT TO REAL PROPERTY LOCATED ON APN 38-06-05 (IMPROVEMENT OWNED BY VIACOM OUTDOOR)

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain improvement to real property, consisting of an outdoor advertising sign structure, more particularly described and depicted in Exhibits “A” and “B”, attached hereto and made a part hereof by reference, in order to implement the Ninth Street Bridge Replacement Project (the “Project”), and

WHEREAS, the City of Modesto and County of Stanislaus entered into a Joint Powers Agreement on March 13, 2001 for the Ninth Street Bridge Replacement Project and agreed pursuant to section 1810 of the Streets and Highways Code, and sections 37350.5 and 37353 of the Government Code that the City shall acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19, of the Constitution of the State of California, and the California Eminent Domain Law, California Code of Civil Procedure Section 1230.010, et seq., and pursuant to Section 37350.5 of the Government Code of California and Section 1810 of the Streets and Highways Code of California, 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, all of whom have been given a reasonable opportunity to appear and be heard before the Modesto City Council 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; and
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, the hearing set out in the notice was held on January 14, 2003 at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed. Based upon the evidence presented, the Council by vote of two-thirds or more of its members, further FINDS, DETERMINES, RESOLVES AND ORDERS as follows:

- 1. The public interest and necessity require the Project;
- 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 improvement to real property more particularly described in said Exhibits "A" and "B" is necessary for the Project;
- 4. 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;
- 5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein

have been complied with by the City of Modesto;

6. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith; and
7. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and empowered to deposit with the State Treasury Condemnation Fund the probable amount of compensation, based on an appraisal, and to apply to the Court for an order of prejudgment possession of the subject property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Fisher, 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:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:
Michael D. Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

The property to be acquired from Viacom Outdoor is the outdoor advertising sign structure identified as sign number 03858 and located on that certain real property situated in the County of Stanislaus, State of California and identified by Stanislaus County Assessor as Assessor's Parcel Number 38-06-05.

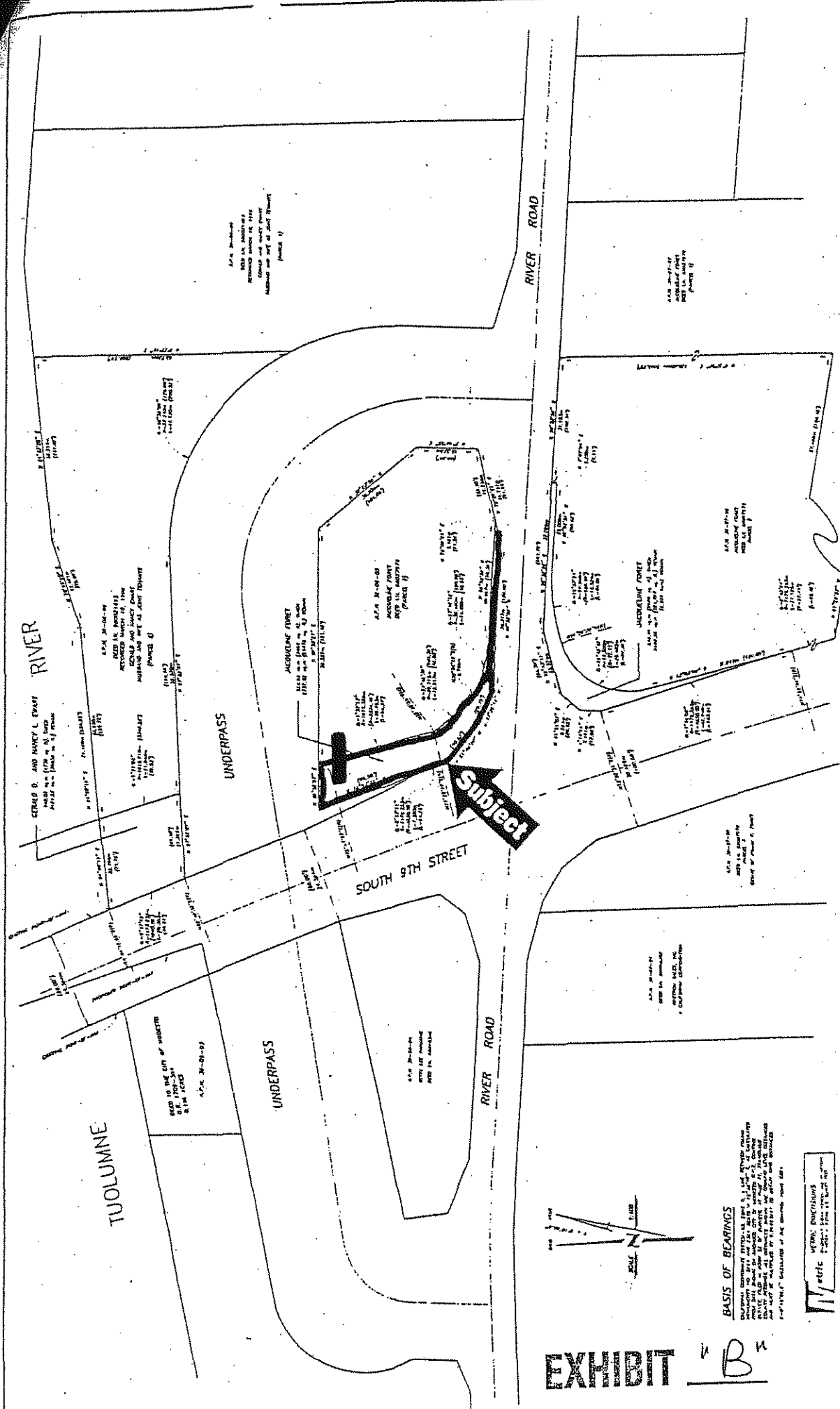


EXHIBIT "B"



BASIS OF BEARINGS
 COURTESY OF THE TUOLUMNE COUNTY PLANNING DEPARTMENT. THE BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE OBTAINED FROM THE PLANNING DEPARTMENT'S RECORDS. THE BEARINGS AND DISTANCES WERE CALCULATED BY THE PLANNING DEPARTMENT'S SURVEYORS.

NOTES: DIMENSIONS SHOWN ON THIS MAP ARE APPROXIMATE.

THOMPSON-HYSELL ENGINEERS
 A PROFESSIONAL ENGINEERING FIRM
 1115 1/2 AVENUE, SUITE 100, TULUMNE, CALIFORNIA 95353
 TEL: (530) 938-1111 FAX: (530) 938-1112



NO.	REVISION	DESCRIPTION	DATE

**9th STREET BRIDGE REPLACEMENT
 RIGHT-OF-WAY ACQUISITION**
 CITY OF TULUMNE, TUOLUMNE COUNTY, CALIFORNIA

DATE: 1/15/2020
 DRAWN BY: J. H. HYSSELL
 CHECKED BY: J. H. HYSSELL
 PROJECT NO.: 2019-001

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-40**

A RESOLUTION APPROVING AN AGREEMENT WITH RAINES, MELTON, & CARELLA, INC., (RMC), TO PERFORM A FEASIBILITY STUDY FOR THE NORTHERN SAN JOAQUIN REGIONAL WATER RECLAMATION FACILITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, Requests for Qualifications for an engineering consulting firm to prepare the Northern San Joaquin Regional Water Reclamation Facility Study (NSJRWRF) were sent to 73 consulting engineering firms, including seven local companies, on August 5, 2002, and

WHEREAS, City staff received ten responses, none of which were from local firms, and

WHEREAS, a review team of staff comprised from the Engineering & Transportation and Operations and Maintenance Departments selected five firms, based upon their qualifications, to receive a Request for Proposal (RFP) and

WHEREAS, three of the five firms who received the RFP submitted proposals, and interviews were conducted on October 28, 2002, by the City's selection team, and

WHEREAS, the Proposals and Interviews for the preparation of the NSJRWRF Feasibility Study were rated by the selection team, in accordance with Administrative Directive 3.1, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that Raines, Melton, & Carella, Inc. (RMC) be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of RMC, in an amount not to exceed \$150,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with RMC for preparation of the NSJRWRF Feasibility Study, in an amount not to exceed \$150,000.

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 14th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-41**

**A RESOLUTION AMENDING THE OPERATING BUDGET IN THE AMOUNT
OF \$150,000 WHICH WILL BE USED FOR A WATER RECYCLING
FACILITIES FEASIBILITY STUDY**

WHEREAS, the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Act (AB 1584) which was approved by voters as Proposition 13, contains a bond law that includes loans and grants for the design of water recycling projects, and

WHEREAS, the City of Modesto's Utility Services and Franchise Committee has directed City Staff to proceed with the application of a planning grant for the design of a water recycling project, and

WHEREAS, the State Water Resources Control Board (SWRCB) placed the City of Modesto's Northern San Joaquin Valley Water Reclamation project as a Category 2 (Early Planning Phases) Project on the Water Recycling Construction Program Priority List, which allowed the City of Modesto to apply for a planning grant of up to 50% of the planning study costs, not to exceed \$75,000, and required the City to submit a detailed Plan of Study for grant approval, and

WHEREAS, the SWRCB has approved the City of Modesto's Plan of Study and will place the City's grant application on the State Board's Agenda Item list for approval, and

WHEREAS, the City will need to show its financial commitment to the feasibility study by budgeting for the \$150,000 study costs, as required by SWRCB's approval of the City of Modesto's grant application, and

WHEREAS, the grant was awarded to the City on March 19, 2002, under SWRCB Contract Number 01-706-550-0 and Grant Number WR-3502-010, and the City will receive revenue of 50% of the study costs, up to \$75,000, through the grant reimbursement,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes an appropriation of \$75,000.00 from the Sewer Reserve fund - Account Number 6210-800-8000-8003, to the Regional Water Reclamation Facility Feasibility Study fund - Account Number 6210-440-5207, to fully fund the feasibility study.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-42**

A RESOLUTION APPROVING A PRE-DEVELOPMENT AGREEMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS TO PROVIDE \$245,000 IN HOME FUNDS FOR THE FEASIBILITY STUDY OF A MULTI-FAMILY HOUSING PROJECT IN VILLAGE ONE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME AGREEMENT.

WHEREAS, on April 9, 2002, the City Council approved Resolution No.2002-172 authorizing staff to solicit Requests for Qualifications for the development of multi-family housing for working citizens in the Village I Specific Plan Area (“Village One”), and

WHEREAS, staff issued a Request for Qualifications in the amount of \$245,000 on April 16, 2002, and

WHEREAS, an RFP review sub-committee met on August 2, 2002, and unanimously recommended the Housing Authority of the County of Stanislaus (“Housing Authority”) and its consulting team as the agency to develop an affordable housing development in Village I, and

WHEREAS, the Citizens Housing and Community Development Committee met on August 23, 2002, and supported the sub-committee’s recommendation that the Housing Authority and its consulting team be selected as the agency to develop an affordable housing development in Village I, and

WHEREAS, on October 1, 2002, by Resolution Ni. 2002-489, the Council of the City of Modesto approved the Housing Authority of the County of Stanislaus as the agency to plan and prepare for and study and determine the feasibility of a multi-family affordable housing project in Village I,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the it hereby approves a pre-development agreement with the Housing Authority of the County of Stanislaus to provide up to \$245,000 in HOME funds in order to plan and prepare for, and study and determine, the feasibility of a multi-family affordable housing development in Village I.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the pre-development agreement with the Housing Authority.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 43**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT FOR
LEGAL SERVICES BETWEEN THE LAW FIRM OF HOWARD, RICE,
NEMEROVSKI, CANADY, FALK AND RABKIN AND THE CITY OF
MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT**

WHEREAS, on February 26, 1998, the City of Modesto entered into a “standard form” Agreement for Legal Services with the law firm of Howard, Rice, Nemerovski, Canady, Falk and Rabkin with respect to the case of *Howard Jarvis Taxpayers Association, et al. v. City of Modesto*, and

WHEREAS, the City of Modesto and Howard, Rice, Nemerovski, Canady, Falk and Rabkin now desire to amend the provisions of said agreement, and

WHEREAS, the City desires to retain the law firm of Howard, Rice, Nemerovski, Canady, Falk and Rabkin’s with respect to the case of *City of Modesto v. National Med, Inc.*, which is pending as Action No. 292944 in the Superior Court of Stanislaus County, and any appeals and writ proceedings arising from the litigation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to Agreement for Legal Services between the law firm of Howard, Rice, Nemerovski, Canady, Falk and Rabkin and the City of Modesto 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 14th day of January, 2003, by Councilmember Fisher, 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: Fisher, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: Conrad, Mayor Sabatino

ABSENT: Councilmembers: None

(SEAL)

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 44**

A RESOLUTION AMENDING THE FISCAL YEAR 02-03 OPERATING BUDGET TO TRANSFER \$300,000.00 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, TO 0100-040-0401-0235-50, CITY ATTORNEY PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR OUTSIDE LEGAL SERVICES TO THE FIRM OF HOWARD, RICE, NEMEROVSKI, CANADY, FALK AND RABKIN

WHEREAS, the City wishes to retain the services of the law firm of Howard, Rice, Nemerovski, Canady, Falk and Rabkin with respect to the case of *City of Modesto v. National Med, Inc.*, which is pending as Action No. 292944 in the Superior Court of Stanislaus County, and any appeals and writ proceedings arising from the litigation, and

WHEREAS, the sum of \$300,000.00 is needed for payment of attorneys fees and costs to the firm of Howard, Rice, Nemerovski, Canady, Falk and Rabkin,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2002-03 operating budget is hereby amended to transfer \$300,000.00 from the General Fund Reserve, 0100-800-8000-8003, to: 0100-040-0401-0235-50, City Attorney Professional Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of January, 2003, by Councilmember Fisher, 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: Fisher, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: Conrad, Mayor Sabatino

ABSENT: Councilmembers: None

(SEAL)

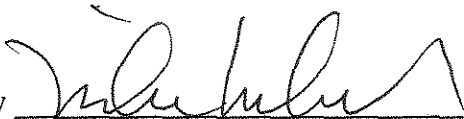
ATTEST:



JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By



MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-45**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "COFFEE
CLARATINA PARK ROAD IMPROVEMENTS" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Coffee Claratina Park Road Improvements", has been completed by Teichert Construction, in accordance with the contract agreement dated August 27, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "Coffee Claratina Park Road Improvements" project be accepted from said contractor, Teichert Construction, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$101,827.50 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-46**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR BIDS FOR CUSTOMER SERVICE
COUNTER REMODEL**

WHEREAS, the Customer Service Division of the Finance Department has determined the need to remodel existing counter space to better accommodate City of Modesto Citizens and to ensure the safety of City of Modesto employees, and

WHEREAS, the existing counter has been found to be ergonomically inadequate, and

WHEREAS, the Customer Service lobby was oversized in the original building design, and

WHEREAS, there are few security measures in place to ensure safety and allow citizens easy access to the Customer Service area and registers, and

WHEREAS, Patti Hill Thomas, Assistant Executive Officer for Stanislaus County personally viewed the counter configuration and agreed that the JPA should bear the financial responsibility for the remodel, and

WHEREAS, by soliciting formal bids, the Finance Department-Purchasing Division will comply with the City of Modesto Municipal Code, Section 8-3.203, regarding formal bid procedures,

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

SECTION 1. The City Clerk is hereby authorized to solicit public competitive sealed bids for the remodel of counter space in the Customer Service-Finance Division, to be opened in the office of the City Clerk, 1010 10th 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 bids are opened, they shall be tabulated and analyzed according to a set procedure and a report submitted to the Council at its regular meeting.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-47**

A RESOLUTION APPROVING AN AGREEMENT WITH CALLANDER ASSOCIATES TO PROVIDE DESIGN SERVICES FOR THE PRODUCTION OF CONSTRUCTION DOCUMENTS FOR THE NEW INSTALLATION AND REMODEL OF PLAYGROUND EQUIPMENT IN FIFTEEN (15) CITY NEIGHBORHOOD PARKS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, City of Modesto staff has identified a need to replace playground equipment in City parks that do not meet current safety standards as set by AB 1055 – The Playground Safety and Recycling Act of 1999, and

WHEREAS, in October 2000, staff evaluated the status of current playground equipment in City parks and developed a proposed 5-year replacement schedule, which has since been revised into a 3-year schedule, and

WHEREAS, the schedule calls for replacement in fiscal year 2002-03 of playground equipment in eight (8) City parks and for the installation in two (2) City neighborhood parks of new playground equipment, and

WHEREAS, the identified parks for replacement of equipment this fiscal year are: Beard Brook, Chrysler, John Muir, Roosevelt, Sherwood, Sonoma, Sylvan and Whitmore, based on need and current condition of playground equipment, and

WHEREAS, the two (2) parks scheduled to receive new installations in this fiscal year are Mark Twain and Sharp, and

WHEREAS, an additional five (5) park playgrounds will be replaced in Fiscal Years 2003-04 and 2004-05, and

WHEREAS, staff has determined that, in order to complete these projects in a timely manner, hiring the services of a Landscape design firm to produce the construction documents is necessary, and

WHEREAS, staff has concluded that Callander Associates is most qualified based on their previous design experience on renovating neighborhood parks and their strong showing of teamwork, and due to their previous experience working with City of Modesto staff on Parks projects, and

WHEREAS, Callander Associates has agreed to perform the required work at a cost not to exceed \$60,000, and

WHEREAS, the Safety and Communities Committee met on August 5, 2002, and supported the recommendation to replace playground equipment and surfacing at eight (8) neighborhood playgrounds and new playground equipment and surfacing in two (2) neighborhood parks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement with Callander Associates to provide design services for the production of construction documents for the new installation and remodel of playground equipment in fifteen (15) City neighborhood parks.

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 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-48**

A RESOLUTION APPROVING AN AMENDMENT TO THE TUOLUMNE RIVER REGIONAL PARK JOINT POWERS AGREEMENT TO INCLUDE FOURTEEN (14) RESIDENTIAL PARCELS OF LAND UNDER THE HOUSING AND URBAN DEVELOPMENT DISASTER RELIEF INITIATIVE PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, in August, 1997, the City of Modesto was notified that it was eligible for \$650,426 in supplemental Community Development Block Grant (CDBG) funds from the Emergency Disaster Relief Initiative to be used to mitigate conditions that were caused by the January 1997 floods, and

WHEREAS, the City prepared a required Action Plan for Disaster Relief, which determined that the appropriate project was to purchase fourteen (14) residential parcels on the south side of Hillside Drive, and to donate the property to the Tuolumne River Regional Park to be kept in passive park use, and

WHEREAS, on December 9, 1997, by Resolution No. 97-677, the City Council authorized staff to submit the Flood Disaster Relief Application to the U. S. Department of Housing and Urban Development (HUD) and authorized the City Manager to execute the necessary grant documents, and

WHEREAS, on December 4, 2001, the City Council adopted Resolution No. 2001-614 which accepted all activities associated with this project as being complete, and

WHEREAS, the properties should now be included in the TRRP Agreement as agreed in the Project Action Plan and Grant Agreement with HUD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an amendment to the Tuolumne River Regional Park Joint Powers Agreement to include fourteen (14) residential parcels of land under the Housing and Urban Development Disaster Relief Initiative Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-49

RESOLUTION AMENDING THE 2001-2004 STRATEGIC PLAN AND VISION

WHEREAS, in September 2000, Council and staff embarked on a strategic planning process to develop a Vision and *Strategic Plan* for the City, and

WHEREAS, the Vision forms the foundation for the *Strategic Plan*, and

WHEREAS, the Vision and *Strategic Plan* build upon previous visioning and planning efforts on the part of the City, and

WHEREAS, the City's organization structure has been realigned to reflect the City's Vision and *Strategic Plan*, and

WHEREAS, on June 18, 2001, Council held a Workshop to review the draft *Strategic Plan* and Vision and

WHEREAS, since that time, numerous public presentations have been made to receive comments on the Vision and *Strategic Plan*, and

WHEREAS, the Vision and *Strategic Plan* have been refined based upon public comments received during the review process, and

WHEREAS, the plan is intended to be a fluid document, which is modified from time to time, and

WHEREAS, a number of amendments to the *Strategic Plan* have been proposed, as set forth in **Exhibit "A"**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the *2001-2004 Strategic Plan and Vision* as set forth in **Exhibit "A"**, 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 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Mike Milich
MIKE MILICH, City Attorney

**Exhibit A
Strategic Plan Amendments**

Milestone Amendments

Strategic Plan Item Number	Strategic Plan Action	Current Milestone	Amended Milestone
I.C.1.a.(4).	Obtain federal, state and other grant funding to replace the Ninth Street Drain and beautify the streetscape. [C&ED]	2002-12	2004-01
IV.C.3.	Incorporate a telecommunications strategy as part of the Business Park development plan. [C&ED]	2001-03	Ongoing
V.C.1.b.	Locate business parks and other industrial land near existing and proposed transportation corridors to foster efficient land use and reduce circulation problems. [C&ED]	2002-01	Ongoing
V.C.1.i.	Identify future potential business park sites and have sites available for immediate development. Develop strategies to protect existing business from unfair economic competition. [C&ED]	2003-12	Ongoing
VI.A.3.	Work with the Sierra Valley Small Business Development Center at SCEDCO to provide assistance to start-up and growing businesses. [C&ED]	2001-07	Ongoing
IX.A.1.	Update the Downtown Master Plan and develop parking strategies to promote future development. [C&ED]	2001-12	2003-12
IX.C.2.	Construct a flagship housing development in Downtown Modesto. [C&ED]	2002-12	2003-06
X.A.2.a.(1).	Form working relationships with area employers. [C&ED]	2001-07	Ongoing
X.A.2.a.(2).	Create early warning system for expansion opportunities, closures and	2001-07	2002-06

Strategic Plan Item Number	Strategic Plan Action	Current Milestone	Amended Milestone
	relocations. [C&ED]		
X.A.2.a.(3).	Increase opportunities and develop incentives for affordable office space. [C&ED]	2003-01	Ongoing
X.A.2.b.(3).	Perform feasibility study for establishing locally-controlled venture capital funds to support entrepreneurship. [C&ED]	2002-12	2003-06
X.A.2.d.(1).	Identify and market to key diversification targets, such as health services and subassembly plants. [C&ED]	2001-12	Ongoing
XII.A.2.	Utilize the Redevelopment Agency to leverage private investment in industrial/business park development. [C&ED]	2003-12	Ongoing
XII.A.3.	Use state-required 20% housing set-aside funds to improve and increase the amount of low to moderate income housing. [C&ED]	2001-07	Ongoing
XII.B.1.	Staff the Redevelopment Agency with specialists in: 1) research and planning, 2) permit/development, and 3) promotion and marketing. [C&ED]	2001-07	2002-06
XII.B.2.	Look at opportunities to encourage people to develop vacant buildings. [C&ED]	2003-12	Ongoing
C.II.A.6.	Plan for facilities around the Performing Arts Center including a Tenth Street Mall and upgraded streetscapes. [C&ED]	2004-01	2004-06
III.A.1.d.	Modify development standards to eliminate bottlenecks. [E&T]	2002-07	2003-09
I.B.1.b.(1).	Assemble a Regional Task Force for Water and Wastewater. [E&T]	2001-10	2003-04

Strategic Plan Item Number	Strategic Plan Action	Current Milestone	Amended Milestone
III.B.4.a.	Expand Corporate & General Aviation Uses at the Airport. [E&T]	2001-08	2002-10
I.C.1.a.(1).	Increase storm drainage standard to protect property. [E&T]	2002-05	2002-09
I.C.1.a.(3).	Form Partnerships to Develop Regional Storm Drain solutions. [E&T]	2002-09	2003-09
III.B.5.c.	Develop the Virginia Corridor as a priority Class I Bikeway and linear parkway. [PR&N]	2003-12	2010-12
C.I.A.8.	Expand programming and uses of King Kennedy Center. [PR&N]	2002-12	Ongoing
C.I.B.2.	Coordinate and expand annual Celebration of Lights. [PR&N]	2002-12	Ongoing
H.II.C.1.b.	Seek opportunities to market and expand the Down Payment Assistance Program. [PR&N]	2002-07	Ongoing
H.II.F.1.a.	Design and plan for construction of the West Side Community Service Center. [PR&N]	2002-07	2002-12
H.V.A.16.	Continue and expand the Mo Band Café for teens. [PR&N]	2002-06	Ongoing
H.V.B.1.	Expand and enhance the Youth in Government Day. [PR&N]	2002-02	Ongoing
C.I.B.3.	Expand Fourth of July Parade to include wider community representation. [PR&N]	2002-07	Ongoing
C.V.A.3.	Plan and initiate Skate Rally. [PR&N]	2002-06	Ongoing
C.II.D.3.	Use the Culture Commission to revise the Master Plan for Cultural Activities and Historic Buildings. [PR&N]	2002-07	2005-07

Other Amendments

Item Number	Item	Requested Amendment	Reason for Amendment
H.V.A.5.	Partner with the community, non-profits, YMCA, etc. to develop Youth Master Plan and action items. [PR&N]	Delete	This item is recommended for deletion due to budgetary constraints.
H.V.C.1.	Develop a Cable Access program run by youth. [PR&N]	Delete	There are presently several youth programs on cable access television.
H.V.D.3.	Offer more opportunities for teens to interact with School Board members and include teens in the decision making process. [PR&N]	Delete	The Modesto City Schools Board of Education has two student representatives. This action item is outside the authority/jurisdiction of the City.
H.V.D.4.	Increase After School <u>Learning</u> Programs for you in the City. [PR&N]	Revise text, as per underline.	This more accurately reflects the nature of the After School programs.
C.I.A.10.	Increase use of Mancini Bowl. [PR&N]	Delete	Staff explored this option but found it to be unviable because most of the potential users want amplified music. Improving lighting at Mancini Bowl is also cost prohibitive.
C.I.A.11.	Partner with business and non-profits to develop Meeting Space for Neighborhood Groups. [PR&N]	Delete	The department secures meeting space as part of the activities related to specific actions. Outside neighborhood groups are eligible to rent our facilities at a reduced rate.
C.V.A.5.	Increase Scholarships and Co-sponsorships of sports groups.	Delete	Council's policy direction has been to hold the funding levels constant.

Item Number	Item [PR&N]	Requested Amendment	Reason for Amendment Without additional funding, this action item cannot be accomplished.
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**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-50**

**RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH
KRAMER.FIRM, INC. FOR PROFESSIONAL CABLE CONSULTATION
SERVICES IN AN AMOUNT NOT TO EXCEED \$155,000 AND AUTHORIZING
THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, on November 18, 2002, the City was notified that in connection with the closing of the merger between AT&T Broadband and Comcast, the name of the new ultimate parent company was changed from "AT&T Comcast Corporation" to Comcast Corporation, and

WHEREAS, the cable operator in the City of Modesto, United Cable Television Corporation has changed its name to Comcast of California XII, Inc., and

WHEREAS, the City continues to work with Comcast Corporation on franchise compliance issues but has concerns regarding progress toward meeting the franchise requirements, and

WHEREAS, existing staff does not have the expertise to assess legal and technical issues pertaining to the cable franchise transfer and compliance, and

WHEREAS, the City has utilized the services of Kramer.Firm, Inc., in the past and been very satisfied with the level of technical knowledge and expertise of that firm, and

WHEREAS, the existing contract entered into on April 23, 2002, is for an amount not to exceed \$55,000, and

WHEREAS the cost of continued services by Kramer.Firm, Inc., to resolve technical issues pertaining to the transfer and cable franchise compliance is estimated at \$155,000, and

WHEREAS, the City is reimbursed for expenditures for these purposes, as per the Cable Transfer Agreement, and

WHEREAS, an additional funding allocation is not being requested,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to Item 3 Compensation of the existing agreement with Kramer.Firm, Inc., for professional technical cable services in an amount not to exceed \$155,000, a copy of which is attached hereto as Attachment 1.

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 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


MICHAEL D. MILICH, CITY ATTORNEY

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-51

A RESOLUTION ACCEPTING THE PROJECT TITLED "2002 SLURRY SEALS" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "2002 Slurry Seals", has been completed by Graham Contractors, Inc., in accordance with the contract agreement dated June 11, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "2002 Slurry Seals" project be accepted from said contractor, Graham Contractors, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,060,085.20 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

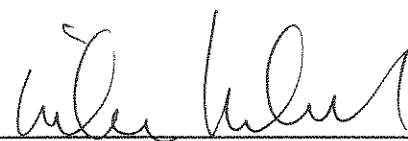
ABSENT: Councilmembers: Fisher

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -53**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT
FOR FINANCIAL MANAGEMENT SERVICES WITH L. PATRICK SAMSELL
AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID
AGREEMENT**

WHEREAS, on July 3, 2001, the City of Modesto entered into an Agreement for Financial Management Services with L. Patrick Samsell for financial management services, and

WHEREAS, on December 31, 2001, the City of Modesto entered into a First Amendment to Agreement for Financial Management Services with L. Patrick Samsell for continued financial management services, and

WHEREAS, on June 25, 2002, the City of Modesto entered into a Second Amendment to Agreement for Financial Management Services with L. Patrick Samsell for continued financial management services, and

WHEREAS, the City has determined that the additional services will be needed after the expiration of the original agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Third Amendment to Agreement for Financial Management Services with L. Patrick Samsell, is hereby approved.

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 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 54**

**A RESOLUTION ADOPTING WRITTEN POLICIES FOR THE CAPITAL
IMPROVEMENT PROGRAM**

WHEREAS, the City does not currently have a centralized process to manage its Capital Improvement Program; and with over \$320 million dollars of capital projects, with more projects being added each year, it is difficult for staff to accurately offer status updates, track revenue sources and close out existing projects, and

WHEREAS, staff has created policies and procedures for the Capital Improvement Program which will improve the tracking process of the program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that written Capital Improvement Program Policies and Procedures, as shown in **Attachment A**, are hereby adopted.

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 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHN, City Clerk

(seal)

APPROVED AS TO FORM:

By: MIKE MILICH
MIKE MILICH, City Attorney

Capital Improvement Program Policies

Definition of a Capital Project

- Cost should be \$100,000 or more
- Most will take more than a single year to complete
- Project revenues and expenditures should be clearly identified and balanced (e.g., revenue should equal project expenditures)
- Projects should have an identifiable schedule that includes a beginning, intervening milestones, and an end

* Ongoing maintenance projects are not considered Capital Projects and will be included and entered into the Operating budget.

Process

The existing projects will be reviewed each quarter during the year. This quarterly review will compare user status and financial information to identify potential project progress and completion. These quarterly reports will be integrated into the budget proforma review process.

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

The City Manager and Deputy City Managers will review and prioritize all existing CIP's to assure it is consistent with the City's General Plan and the City's updated vision statement.

Finance Department's recommended Capital Improvement Program (CIP) Policies

CIP Projects. Large construction projects and equipment purchases will be included in the Capital Improvement Program. (Maintenance projects will be excluded)

CIP Purpose. The purpose of the CIP is to systematically plan, schedule, manage, monitor and finance capital projects to ensure cost-effectiveness as well as conformance with established policies. The CIP is a ten-year plan organized into the same functional groupings used for the operating programs. The CIP will reflect a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure; and capital facility projects that significantly expand or add to the City's existing fixed assets.

Project Manager. Every CIP project will have a project manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status. Each proposed CIP project will include the approximate location, size, time of availability and estimate of costs and source of funding such as General Fund, Capital Facility Fees, Federal or State Grant, etc. The project manager will also ensure that projects comply with Community Facility District (CFD) and Capital Facility Fees (CFF) regulations. The project managers will also be responsible for development of quarterly status reports for their CIP.

The Planning Commission will review proposed and existing CIP projects each year as part of the annual budget process. This review will be done prior to Council review.

All projects will not be successfully completed and more projects will be studied than will be designed, and more projects will be designed than will be constructed or purchased during the term of the CIP.

CIP Appropriation. The City's annual CIP appropriation for study, design, acquisition and/or construction is based on the projects designated by the Council through adoption of the Budget. **Adoption of the CIP appropriation does not automatically authorize funding for specific project phase.** Project engineering and preliminary engineering will be appropriated at the time of Council action. This authorization for construction and vehicle purchase generally occurs only after the costs for the phases have been fully developed, a grant is awarded or a contract is granted after a competitive bid process or request for proposal (RFP) and approved by Council.

Accordingly, project construction and vehicle purchase authorizations are generally made when contracts are awarded. If contract costs at the time of bid award are less than the budgeted amount, the unobligated balance will either be re-appropriated to project contingency or returned to fund balance. This action should be clearly explained in the fiscal impact section of a Council document and include any estimate for City engineering costs and required contingency to complete the project.

If project costs at the time of bid award are greater than budget amounts, four basic options are available:

1. Eliminate the project.
2. Defer the project for consideration to the next Budget cycle.
3. Re-scope or change the phasing of the project to meet the existing budget.
4. Appropriate additional resources as necessary from fund balance or other revenue sources.

For new CIP projects outside of the adoption process, resources need to be identified:

- Is there sufficient fund balance or monitored cash flow?
- Has an invoicing procedure been established?
- If sufficient funds are not available then lower priority projects will need to be eliminated and the budget will need to be re-appropriated and returned to the correct fund balance.

CIP Budget Carry-over. The City Manager has authority to close CIP projects that lapse under the following circumstances:

- A CIP will lapse 2 years after budget adoption action if the environmental document is not complete
- A construction appropriation will lapse one year after Council has accepted the environmental document if a contract has not been activated.

Actions involving any Federal or State funded CIP will be restrained by the conditions of the grant.

Projects which lapse from lack of project account appropriations may be resubmitted for inclusion in a subsequent Budget CIP cycle. Project accounts, which have been appropriated and contracts awarded/encumbered, will not lapse until completion of the project phase assuming proper status reporting.

Project Status. Project milestones will be listed as objectives in the program narratives in order to track the status of projects.

CIP Project Reporting and Update Process

- Cost Estimates/Actuals by Phase
- Schedule (Time Line)
- Accounting Procedures/Revenue Tracking/Grant Invoicing /Project Closeout Procedures
- Timely Status Update Reporting. (Note: Cost overruns and funding needs to be determined early. Updated costs and postponed timelines flag potential funding issues.)

CIP Authority

1. City Council has authority to create new CIPs
2. City Council has authority to increase the budget of CIPs.
3. City Manager has authority to close any CIP and to return project funds to the fund balance
4. City Manager has authority to appropriate project contingency funds to individual budget lines

ATTACHMENT B

BALANCES OF CIP'S TO BE CLOSED--- BY FUND

FUND	FUND NAME	CUR-MOD-BUD	ENCUMB	EXPENDED	UNOBLIG
0510	LTF STREETS & ROADS FD	2,869,391	13,422	2,822,727	33,242
0520	LTF NON-MOTOR FD	715,614	0	334,259	381,355
0700	SPECIAL GAS TAX FD	30,235,573	8,731	29,241,988	984,854
1130	CDBG-DIR PRGM	994,839	0	507,103	487,736
115	HOUSE LOAN PGRM	7,331	0	7,331	0
1300	SPEC FD CAPITAL OUTLAY	860,967	125,778	539,867	195,322
131	POLICE DEPT CAP FAC FD	243,000	0	242,915	85
1350	PARKS CAP FAC FD	1,919,644	0	1,895,452	24,192
1390	CAP FAC FEES ADMIN FD	191,417	22,878	168,509	29
1400	PARK FD	648,705	0	587,113	61,592
1410	STREET CAP FAC FD	10,117,100	29,242	9,522,970	564,888
142	PUBLIC TRANSPN CAP FAC FD	3,000	0	0	3,000
1430	AIR QUALITY CAP FAC FEE FD	289,668	0	137,218	152,450
170	STATE PARKS & REC	510,044	0	510,044	0
2300	CAPITAL GRANTS	2,218,200	0	806,007	1,412,193
2600	VILLAGE ONE CFD FD	758,445	0	758,444	1
6100	WATER FD	1,615,984	0	883,845	732,139
6120	WATER CIP COP FD	2,862,037	7,089	2,625,068	229,880
6150	DEL ESTE MID SVCE AREAS	1,623,564	0	1,378,101	245,463
6160	DEL ESTE NON-MID SVCE AREAS	806,717	19,400	723,480	63,837
6210	SEWER OP FD	4,503,345	0	4,455,499	47,846
623	1997 SEWER REV BONDS	9,746,094	0	9,723,197	22,897
6280	STORM DRAINAGE FD	4,013,991	0	3,977,103	36,888
6320	SPCL AVIATION FD	1,627,334	0	1,510,674	116,660
6510	BUS SERV FD-FIX RTE	1,392,744	0	1,392,741	3
6710	CENTRE PLAZA FF&E	228,286	0	228,178	108
713	INFO & TECH SVCS	1,349,011	0	1,341,796	7,215
7200	FLEET MGMT FD	871,308	22,458	603,742	245,108
7800	P/R BUILDING FD	39,750	0	39,750	0
8910	TRRP SPCL REV FD-CIP	313,000	0	312,720	280
907	RDA 10TH ST PROJECT	2,628,332	0	2,628,332	0
FUND TOTALS		86,204,435	248,998	79,906,172	6,049,265

ATTACHMENT C: CIP's CL LIST---BY ORGANIZATION

FY	FD	FD NAME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	UNOBLIG
1992	651	BUS SERV FD-FIX RTE	160	B911	NEW BUS MAINTENANCE FAC (3 digit fund vs.)	324,992	0	324,991	1
1993	612	WATER CIP COP FD	480	C130	NEW WATER BLDG	114,918	0	114,918	0
1993	612	WATER CIP COP FD	480	C187	WELL 22 SAND SEPERATOR	387,233	0	387,233	0
1993	141	STREET CAP FAC FD	160	C226	ATMS DESIGN/SYSTEM ADMINSTRATR	114,011	0	114,010	1
1993	1410	STREET CAP FAC FD	160	C226	ATMS DESIGN/SYSTEM ADMINSTRATR	35,990	0	0	35,990
1993	141	STREET CAP FAC FD	160	C630	CENTRALIZED TRAFFIC SIGNAL CON	1,959,216	0	1,947,246	11,970
1994	070	SPECIAL GAS TAX FD	430	D265	9TH ST-RAILROAD RELCTN-PH 1 (3 digit fund vs.)	4,988,217	0	4,988,216	1
1994	141	STREET CAP FAC FD	160	D266	AUTOMATED TRAFFIC MANGMT(CCTV)	326,911	0	270,113	56,798
1994	1410	STREET CAP FAC FD	160	D266	AUTOMATED TRAFFIC MANGMT(CCTV)	31,969	0	0	31,969
1994	070	SPECIAL GAS TAX FD	160	D286	RESTRIPE SCENIC/OAKDALE-CLAUS	40,161	0	40,160	1
1994	141	STREET CAP FAC FD	160	D853	ATMS SYSTEM VENDOR	140,380	0	140,379	1
1994	1410	STREET CAP FAC FD	160	D853	ATMS SYSTEM VENDOR	65,825	0	0	65,825
1995	070	SPECIAL GAS TAX FD	430	E265	9TH ST.RR TUOLUMNE BLVD EXTSN (3 digit fund	737,912	0	737,911	1
1995	141	STREET CAP FAC FD	160	E438	ADVANCED TRAFFIC MANAGMT SYSTM	110,000	0	105,125	4,875
1995	070	SPECIAL GAS TAX FD	430	E932	AIRPORT DISTRCT-PUBLIC IMPRMTS	386,243	0	386,243	0
1996	070	SPECIAL GAS TAX FD	430	F265	KANSAS/NEEDHAM OVRHD PROJ (3 digit fund vs.	4,572,915	0	4,573,026	(111)
1996	051	LTF STREETS & ROADS FD	430	F654	AMTRAK STATION	2,839,391	13,422	2,822,727	3,242
1996	070	SPECIAL GAS TAX FD	160	F665	MITCHELL/FINCH ACCELERATN LANE	107,000	0	101,046	5,954
1996	141	STREET CAP FAC FD	430	F701	CLAUS/YOSE & YOSE/NRSEMNT INTSCT	444,571	0	420,070	24,501
1996	143	AIR QUALITY CAP FAC FEE FD	430	F706	AMTRAK STATION	113,499	0	113,498	1
1996	621	SEWER OP FD	480	F735	REPLACE EMERALD TRUNK SEWER	521,624	0	521,623	1
1996	142	PUBLIC TRANSPN CAP FAC FD	160	F767	THREE PASSENGER BUS SHELTERS	3,000	0	0	3,000
1996	651	BUS SERV FD-FIX RTE	160	F779	REFRB 9 '83 GILLIG PHNTM BUSES	24,101	0	24,100	1
1996	113	CDBG-DIR PRGM	020	F789	HBR-ADA COMPLIANCE	37,343	0	37,343	0
1996	621	SEWER OP FD	480	F798	SECONDARY PLANT FLOW METERS	3,310	0	3,310	0
1996	070	SPECIAL GAS TAX FD	430	F961	SNYDER AVE-PRESCTT/CARVR OVRLY	9,972	0	9,972	0
1996	070	SPECIAL GAS TAX FD	160	F970	CERES-ATMS DESIGN	1,171,754	0	1,136,322	35,432
1997	621	SEWER OP FD	480	H016	ANNUAL SEWER REHABILITATION	546,814	0	532,464	14,350
1997	143	AIR QUALITY CAP FAC FEE FD	310	H022	MITCHELL RD BIKE BRIDGE/TRAIL	1,169	0	1,169	0
1997	141	STREET CAP FAC FD	160	H040	T/S MODIFY ORANGEBURG/OAKDALE	28,690	0	28,690	0
1997	070	SPECIAL GAS TAX FD	160	H053	SCHOOL FLASHERS	22,234	0	22,234	0
1997	070	SPECIAL GAS TAX FD	430	H057	BLUEGUM IMPROVMTS MJC WEST	157,564	0	157,563	1
1997	070	SPECIAL GAS TAX FD	430	H063	PAVEMENT MAINTENANCE	360,000	0	360,000	0
1997	170	STATE PARKS & REC	310	H067	SCENIC OVERLOOK LAND ACQ	510,044	0	510,044	0
1997	141	STREET CAP FAC FD	430	H070	KIERNAN PLAN LINE	148,000	0	115,020	32,980
1997	632	SPCL AVIATION FD	480	H073	G.A. & TERMNL SECURITY LGHTNG	216,793	0	214,980	1,813
1997	632	SPCL AVIATION FD	480	H076	RUNWAY 10L/28R HOLDING BAYS	209,537	0	201,494	8,043
1997	628	STORM DRAINAGE FD	480	H081	9TH STREET OUTFALL	829,000	0	803,559	25,441
1997	628	STORM DRAINAGE FD	480	H082	ANNUAL CATCH BASIN&VALLEY REPR	244,200	0	240,196	4,004
1997	628	STORM DRAINAGE FD	480	H084	COFFEE ROAD STORM DRAIN	964,101	0	961,912	2,189
1997	628	STORM DRAINAGE FD	480	H085	DRAIN ROCK DUMP SITE/RECYCLING	56,851	0	56,850	1
1997	615	DEL ESTE MID SVCE AREAS	480	H365	STRENGTHEN WATER SYSTEM (615)	77,850	0	77,850	0
1997	615	DEL ESTE MID SVCE AREAS	480	H366	WATER STORAGE BUILDING (615)	29,981	0	29,981	0
1997	616	DEL ESTE NON-MID SVCE AREAS	480	H371	WATER STORAGE BUILDING (616)	29,650	0	29,649	1
1997	621	SEWER OP FD	480	H373	REHABILITATE NORTHGT LIFT STN	252,500	0	245,494	7,006
1997	621	SEWER OP FD	480	H376	EFFLUENT PUMP FAC-VARIABLE SPD	241,753	0	241,753	0

FY	FD	FD NAME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	UNOBLIG
1997	621	SEWER OP FD	480	H387	RECLAMATION CONCEPT DEVELOPMNT	36,000	0	36,000	0
1997	130	SPEC FD CAPITAL OUTLAY	120	H390	UTILITY BILLING SOFTWARE REPLA	318,358	0	313,259	5,099
1997	623	1997 SEWER REV BONDS	480	H865	CANNERY SEGREGATION PIPELINE	7,816,134	0	7,816,133	1
1997	623	1997 SEWER REV BONDS	480	H869	RANCH IMPROVEMENTS	666,217	0	666,217	0
1997	070	SPECIAL GAS TAX FD	160	H904	CONTROLLERS (26) S	143,928	0	143,927	1
1997	070	SPECIAL GAS TAX FD	160	H909	VIDEO LOOP EMULATOR	41,244	0	41,244	0
1997	070	SPECIAL GAS TAX FD	160	H910	INTERSECTION TRAFFIC COUNTER	31,765	0	31,765	0
1997	070	SPECIAL GAS TAX FD	160	H915	OAKDALE/SCENIC SP RT LN	150,000	0	2,812	147,188
1997	070	SPECIAL GAS TAX FD	160	H917	TRAVEL TIME MONITORING SYS	10,898	0	10,859	39
1997	070	SPECIAL GAS TAX FD	160	H919	OPERATING ATMS (2 YRS)	255,507	0	255,507	0
1997	070	SPECIAL GAS TAX FD	160	H921	PREFERENTIAL PARKING-CARPOOLER	29,361	0	29,361	0
1997	070	SPECIAL GAS TAX FD	160	H922	CITY OF MODESTO RIDESHARE PROG	29,719	0	29,647	72
1997	141	STREET CAP FAC FD	160	H977	TRAFFIC SIGNAL 9TH/CARVER	221,716	0	220,532	1,184
1997	1410	STREET CAP FAC FD	160	H977	TRAFFIC SIGNAL 9TH/CARVER	537	536	0	1
1997	070	SPECIAL GAS TAX FD	160	H978	TRAFFIC SIGNAL DALE/PELANDALE	181,585	0	171,778	9,807
1997	0700	SPECIAL GAS TAX FD	160	H978	TRAFFIC SIGNAL DALE/PELANDALE	2,293	0	38	2,255
1997	070	SPECIAL GAS TAX FD	430	H987	COFFEE/BRIGGSMR-FLOYD STORM DR	657,438	0	654,766	2,672
1997	070	SPECIAL GAS TAX FD	430	H989	CARPNTN/KANSAS-SISK IMPTS/OVER	2,214,084	0	2,159,842	54,242
1997	141	STREET CAP FAC FD	160	H990	T/S KANSAS/SR99 SOUTHBNDRAMPS	137,000	0	137,000	0
1998	113	CDBG-DIR PRGM	140	J026	SISK ROAD LANDSCAPING	15,020	0	15,020	0
1998	113	CDBG-DIR PRGM	480	J233	CIP - HILLSIDE DRIVE FENCING	8,482	0	8,482	0
1998	113	CDBG-DIR PRGM	480	J238	CIP - HILLSIDE DR. ST. IMPROVE	112,000	0	46,503	65,497
1998	891	TRRP SPCL REV FD-CIP	450	J258	TRRP LAND USE PLANNING	150,000	0	150,000	0
1998	628	STORM DRAINAGE FD	480	J261	COFFEE RD STORM DRAIN PIPE	187,405	0	187,405	0
1998	135	PARKS CAP FAC FD	310	J303	EISENHUT NBH PARK PHASE I & II	422,344	0	422,343	1
1998	135	PARKS CAP FAC FD	310	J320	MARTONE TOT LOT	106,684	0	106,683	1
1998	140	PARK FD	310	J418	PARK PAVING RENOVATION - DAVIS	9,469	0	9,468	1
1998	141	STREET CAP FAC FD	430	J486	CARPENTER SOUTH OF MAZE IMPRMT	264,500	0	264,378	122
1998	113	CDBG-DIR PRGM	430	J498	HANDICAP BARRIER REMOVAL-CURB	5,061	0	3,060	2,001
1998	610	WATER FD	480	J509	EXTEND WATER MAINS (610)	147,816	0	113,313	34,503
1998	615	DEL ESTE MID SVCE AREAS	480	J526	INSTALL SCADA RTU'S (615)	184,998	0	184,997	1
1998	615	DEL ESTE MID SVCE AREAS	480	J527	INSTALL NEW WELL METERS (615)	15,000	0	11,940	3,060
1998	616	DEL ESTE NON-MID SVCE AREAS	480	J537	REPLACE WATER MAINS (616)	80,000	0	77,678	2,322
1998	623	1997 SEWER REV BONDS	480	J584	REHAB CLAYTON-MARTIN LIFT STN	190,000	0	173,640	16,360
1998	623	1997 SEWER REV BONDS	480	J586	REHAB HAHN LIFT STATION	90,000	0	88,574	1,426
1998	623	1997 SEWER REV BONDS	480	J608	CONFINED SPACE-COMM/GANTRY/HST	24,962	0	24,962	0
1998	623	1997 SEWER REV BONDS	480	J609	MINI CAMERA W/CABLE, TRANSPNDR	7,441	0	7,440	1
1998	623	1997 SEWER REV BONDS	480	J625	REPAIR&UPGRADE PONDS CNTL BLDG	101,340	0	101,339	1
1998	623	1997 SEWER REV BONDS	480	J647	REP&COAT 60 OUTFALL SEWER-PH2"	850,000	0	844,891	5,109
1998	628	STORM DRAINAGE FD	480	J660	ANNUAL CATCH BASIN AND VALLEY	120,977	0	118,039	2,938
1998	628	STORM DRAINAGE FD	480	J750	ANNUAL:SUNKEN SIDEWLK@RCKWELLS	6,665	0	6,665	0
1998	628	STORM DRAINAGE FD	480	J751	ANNUAL POS STORM DRAIN REPAIRS	170,802	0	170,802	0
1998	651	BUS SERV FD-FIX RTE	160	J757	REPLACE BUS YARD GATES	7,000	0	7,000	0
1998	632	SPCL AVIATION FD	480	J850	RELOCATE RUNWAY 10R/28L LIGHTS	110,162	0	103,059	7,103
1998	632	SPCL AVIATION FD	480	J851	RUNWAY 10R/28L PAVEMNT OVERLAY	386,842	0	371,224	15,618
1998	713	INFO & TECH SVCS	120	J860	IBM 4381 MAINFRAME REPLACEMENT	1,349,011	0	1,341,796	7,215
1998	720	FLEET MGMT FD	480	J862	CORPORATION YARD MIS INTERFACE	85,947	0	84,963	984
1998	720	MGMT FD	480	J875	MAIN SHOP HOI	72,850	0	68,000	4,609

FY	FD	ME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	VOBLIG
1998	7200	FLEET MGMT FD	480	J875	MAIN SHOP HOIS	25,150	3,514	21,000	0
1998	720	FLEET MGMT FD	480	J879	FLEET SVC POLICE SHOP RLCTN (3 digit fund vs.	687,361	18,944	428,902	239,515
1998	907	RDA 10TH ST PROJECT	140	J892	BLOCK B IMPROVEMENTS	100,000	0	100,000	0
1998	907	RDA 10TH ST PROJECT	140	J893	CINEMA ASSISTANCE	1,878,332	0	1,878,332	0
1998	907	RDA 10TH ST PROJECT	140	J894	PROJECT ADMINISTRATION	100,000	0	100,000	0
1998	907	RDA 10TH ST PROJECT	140	J895	PRIOR DESIGN COSTS	550,000	0	550,000	0
1998	131	POLICE DEPT CAP FAC FD	190	J898	POLICE VEHICLES	243,000	0	242,915	85
1998	070	SPECIAL GAS TAX FD	430	J900	BRIGGSMORE AVE PAVEMENT REHAB	2,201,000	0	1,901,630	299,370
1998	070	SPECIAL GAS TAX FD	430	J935	STANDIFORD OVRLY-TULLY/MCHENRY	1,509,330	0	1,421,541	87,789
1998	612	WATER CIP COP FD	480	J941	20 TRANS MAIN	497,500	0	486,342	11,158
1998	621	SEWER OP FD	480	J941	20 TRANS MAIN	0	0	20	(20)
1998	612	WATER CIP COP FD	480	J944	24 TRANS MAIN	1,515,000	0	1,297,958	217,042
1998	070	SPECIAL GAS TAX FD	160	J994	RETIME DOWNTOWN T/S-CMAQ	70,954	0	70,954	0
1999	070	SPECIAL GAS TAX FD	160	K005	MODIFY 8 T/S:TULLY AND COLLEGE	682,112	0	632,967	49,145
1999	070	SPECIAL GAS TAX FD	160	K006	TRAFFIC CONTROL SIGN REPLACEMT	50,000	0	49,321	679
1999	070	SPECIAL GAS TAX FD	160	K007	STREET NAME SIGN REPLACEMENT	50,000	0	31,978	18,022
1999	070	SPECIAL GAS TAX FD	160	K008	STOP SIGN REPLACEMENT	49,247	0	49,247	0
1999	141	STREET CAP FAC FD	430	K009	S.R.132EAST-PROJECT STUDY RPT	30,000	0	30,000	0
1999	621	SEWER OP FD	440	K011	SUBTRUNK EXTENSIONS	554,205	0	554,205	0
1999	130	SPEC FD CAPITAL OUTLAY	190	K012	RADIO REPLACEMENT	20,000	0	20,000	0
1999	628	STORM DRAINAGE FD	480	K013	COLLEGE/COLDWELL SRM LIFT STN	436,144	0	434,057	2,087
1999	115	HOUSE LOAN PGRM	440	K015	ST.LGHTNG-PRESCOTT EST/ROSELWN	7,331	0	7,331	0
1999	130	SPEC FD CAPITAL OUTLAY	190	K019	40 MTRLA MINI-PORTBL RADIOS	40,000	0	40,000	0
1999	113	CDBG-DIR PRGM	140	K028	SIDEWALK IMPROVEMENTS	46,933	0	46,933	0
1999	628	STORM DRAINAGE FD	480	K034	DEFERRED MAINT. ROCKWELLS	180,000	0	179,794	206
1999	621	SEWER OP FD	440	K035	Y2K SEWER LIFT STATION	199,321	0	199,262	59
1999	130	SPEC FD CAPITAL OUTLAY	190	K039	NEW & REPLMT MOBILE DATA	100,000	0	100,000	0
1999	135	PARKS CAP FAC FD	310	K044	STOCKARD-COFFEE NBH PARK- ALL	439,000	0	436,935	2,065
1999	070	SPECIAL GAS TAX FD	140	K046	RIDESHARE PROGRAM	54,000	0	54,000	0
1999	135	PARKS CAP FAC FD	310	K055	ACQUISITION	2,000	0	1,844	156
1999	135	PARKS CAP FAC FD	330	K062	DRYDEN GOLF CART SHED	177,362	0	177,361	1
1999	130	SPEC FD CAPITAL OUTLAY	310	K068	MCHENRY MUESUM PAINTING	16,609	0	16,608	1
1999	070	SPECIAL GAS TAX FD	140	K071	CARPPOOLER PROGRAM	40,195	0	40,050	145
1999	891	TRRP SPCL REV FD-CIP	310	K075	BELLENITA REST ROOM REPLACEMNT	53,000	0	52,720	280
1999	052	LTF NON-MOTOR FD	310	K092	NON-MOTORIZED TRANSPORTN PLAN	86,614	0	77,905	8,709
1999	135	PARKS CAP FAC FD	310	K093	MARK TWAIN NEIGHBORHD PARK	660,000	0	638,150	21,850
1999	671	CENTRE PLAZA FF&E	340	K094	CENTRE PLAZA FF&E	228,105	0	228,104	1
1999	6710	CENTRE PLAZA FF&E	340	K094	CENTRE PLAZA FF&E	181	0	74	107
1999	143	AIR QUALITY CAP FAC FEE FD	310	K096	CARVER BANGS NON-MTRIZD TRAIL	55,000	0	1,664	53,336
1999	143	AIR QUALITY CAP FAC FEE FD	310	K100	PELANDALE SNYDER NON-MTRIZED	30,000	0	0	30,000
1999	135	PARKS CAP FAC FD	310	K102	SPORTS COMPLEX	110,400	0	110,353	47
1999	141	STREET CAP FAC FD	430	K122	PELANDALE EXPRESSWAY: PHASE IA	1,782,034	0	1,726,739	55,295
1999	1410	STREET CAP FAC FD	430	K122	PELANDALE EXPRESSWAY: PHASE IA	24,500	0	24,500	0
1999	070	SPECIAL GAS TAX FD	430	K137	PAVEMENT CONDITION SURVEY	34,982	0	34,715	267
1999	070	SPECIAL GAS TAX FD	430	K156	PAVEMENT MAINTENANCE 99	337,300	0	337,011	289
1999	141	STREET CAP FAC FD	430	K196	GARNER:YOSEMT-HATCH PLAN LINE	42,813	0	29,826	12,987
1999	1410	STREET CAP FAC FD	430	K196	GARNER:YOSEMT-HATCH PLAN LINE	7,189	7,187	0	2
1999	141	STREET CAP FAC FD	430	K229	PELANDALE/MCHENRY INTERSECTION	254,651	0	230,308	24,343

FY	FD	FD NAME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	UNOBLIG
1999	1410	STREET CAP FAC FD	430	K229	PELANDALE/MCHENRY INTERSECTION	1,520	1,520	0	0
1999	612	WATER CIP COP FD	480	K230	BANGS AVE WATERLINE	340,297	0	338,618	1,679
1999	6120	WATER CIP COP FD	480	K230	BANGS AVE WATERLINE	7,089	7,089	0	0
1999	070	SPECIAL GAS TAX FD	430	K265	9TH ST-RAILROAD RELCTN-PH 2 (3 digit fund vs.)	5,567,389	8,731	5,558,658	0
1999	070	SPECIAL GAS TAX FD	160	K267	T/SIGNAL MODIFICATIONS	39,000	0	38,194	806
1999	070	SPECIAL GAS TAX FD	160	K367	STREET LIGHTS VARIOUS LCTNS	433	0	433	0
1999	141	STREET CAP FAC FD	160	K383	ORANGEBURG/KEARNEY NEW TRAFFIC	104,723	0	104,722	1
1999	610	WATER FD	440	K458	REPLACE WATER MAINS (610)	25,253	0	35,253	(10,000)
1999	610	WATER FD	440	K487	INSTALL NEW SERVICES (610)	150,000	0	149,997	3
1999	615	DEL ESTE MID SVCE AREAS	440	K566	REPLACE WATER MAINS (615)	586,420	0	586,420	0
1999	615	DEL ESTE MID SVCE AREAS	440	K568	STRENGTHEN WATER SYSTEM (615)	435,303	0	435,303	0
1999	616	DEL ESTE NON-MID SVCE AREAS	440	K635	REPLACE WATER MAINS (616)	103,757	0	103,756	1
1999	610	WATER FD	440	K649	EXTEND WATER MAINS (610)	36,358	0	36,328	30
1999	621	SEWER OP FD	440	K679	ANNUAL SEWER REHAB ('99)	126,582	0	126,581	1
1999	621	SEWER OP FD	440	K689	REBUILD CLARIFIER#2 CATWLK BRD	124	0	124	0
1999	621	SEWER OP FD	440	K692	DIGESTERS 4 & 5 RECOATING	154,114	0	154,114	0
1999	621	SEWER OP FD	440	K720	FIXED FILM REACTOR SIDING RPL	124,493	0	124,493	0
1999	621	SEWER OP FD	440	K730	CHLORINE/SULPHUR DIOXIDE CNTR	25,000	0	25,000	0
1999	632	SPCL AVIATION FD	440	K823	ARFF IMPROVEMENT	537,000	0	453,017	83,983
1999	632	SPCL AVIATION FD	440	K825	RUNWAY SWEEPER	130,000	0	129,914	87
1999	139	CAP FAC FEES ADMIN FD	120	K828	CFF CONSULTANT CHARGES	20,417	0	20,417	1
1999	070	SPECIAL GAS TAX FD	160	K905	ROUNDABOUT AT 19TH AND H ST	13,698	0	13,015	683
1999	140	PARK FD	310	K925	GRACEADA G.I.F.T. PROJECT	148,126	0	148,124	2
1999	052	LTF NON-MOTOR FD	140	K936	DOWNTOWN MODESTO BICYCLE PRKG	79,000	0	47,716	31,284
1999	070	SPECIAL GAS TAX FD	160	K952	INCANDESCENT LAMPS W/LEDS	154,952	0	154,952	0
2000	1400	PARK FD	310	L007	DAVIS PARK DRAINAGE	40,000	0	17,252	22,748
2000	1400	PARK FD	310	L008	DOWNEY PARK DRAINAGE	45,000	0	6,153	38,847
2000	1400	PARK FD	310	L010	BEYER PARK FENCING	9,881	0	9,880	1
2000	8910	TRRP SPCL REV FD-CIP	310	L015	TRRP MASTER PLAN UP-DATE	110,000	0	110,000	0
2000	1410	STREET CAP FAC FD	160	L022	STANDIFD/SHAWNEE TRAFFIC SIGNL	130,000	0	96,924	33,076
2000	1410	STREET CAP FAC FD	160	L025	ATMS - CCTV	150,000	0	149,999	1
2000	0700	SPECIAL GAS TAX FD	160	L027	STREET LIGHTS VARIOUS NEW LCTN	25,000	0	24,897	103
2000	0700	SPECIAL GAS TAX FD	160	L031	NEIGHBORHOOD TRAFFIC CALMING	26,000	0	25,990	10
2000	0700	SPECIAL GAS TAX FD	160	L032	LOW COST TRAFFIC IMPTS-VARIOUS	9,000	0	8,973	27
2000	0700	SPECIAL GAS TAX FD	160	L034	INTERSECTN UPGRADES VARIOUS I	29,000	0	28,266	735
2000	1410	STREET CAP FAC FD	430	L039	PELANDALE-MCHNRY&PRSCCTT:SNY-PEL	1,041,981	0	1,041,980	1
2000	1410	STREET CAP FAC FD	430	L040	PELANDALE PH.1B-IRRGTN RELOCTN	358,508	0	354,632	3,876
2000	6100	WATER FD	480	L041	EXTEND WATER MAINS UNSPECIFIED	181,720	0	181,719	1
2000	6100	WATER FD	480	L042	INSTALL WATER METERS (610)	5	0	4	1
2000	6100	WATER FD	480	L043	REPLACE WATER MAINS (610)	163,833	0	163,234	599
2000	6100	WATER FD	480	L045	STRENGTHEN WATER SYSTEM (610)	168,747	0	168,747	0
2000	6100	WATER FD	480	L047	EXTEND WATER MAINS CARVER-BANG	31,937	0	31,936	1
2000	6100	WATER FD	480	L048	SCADA IMPROVEMENTS (610)	3,315	0	3,315	0
2000	6150	DEL ESTE MID SVCE AREAS	480	L053	REPLACE WATER MAINS (615)	51,612	0	51,611	1
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L061	REPLACE WATER MAINS (616)	41,239	0	41,238	1
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L062	INSTALL NEW SERVICES (616)	72	0	71	1
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L063	INSTALL WATER METERS (616)	8,902	0	8,901	1
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L064	STRENGTHEN WATER SYSTEM (616)	47,315	0	47,315	0

FY	FD	ME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	VOBLIG
2000	6210	SEWER OP FD	480	L069	ANNUAL LIFT STATION REHAB	21,905	0	21,905	2
2000	6210	SEWER OP FD	480	L071	ANNUAL SEWER REHABILITATION	430,000	0	429,380	620
2000	6210	SEWER OP FD	480	L077	ANNUAL RENWAL &REPLMT-PRIMARY	209,700	0	209,700	0
2000	6210	SEWER OP FD	480	L086	MOTORIZED GATE ACTUATORS	65,000	0	49,791	15,209
2000	6210	SEWER OP FD	480	L089	BOWEN LIFT STN STORG BLD-PMPS	98,117	0	98,117	0
2000	6280	STORM DRAINAGE FD	480	L093	MAINTENANCE OF RETENTN BASINS	199,934	0	199,932	2
2000	6280	STORM DRAINAGE FD	480	L096	ROCKWELL REPLACEMENT/ADDITION	556,055	0	556,055	0
2000	6280	STORM DRAINAGE FD	480	L099	ANNUAL:SUNKEN SIDEWALK@ROCKWLL	61,857	0	61,838	19
2000	6320	SPCL AVIATION FD	440	L107	T-HANGAR K/L/M CONSTRUCTION	37,000	0	36,986	14
2000	1390	CAP FAC FEES ADMIN FD	120	L109	CAPITAL FACILITY FEE STAFF CHG	20,000	0	20,000	0
2000	1390	CAP FAC FEES ADMIN FD	120	L110	CAPITAL FACILITY FEE CONSLTN	10,000	0	10,000	0
2000	7800	P/R BUILDING FD	480	L115	ROOF REPAIRS/REPLACEMENTS	39,750	0	39,750	0
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L119	RIVER ROAD WATERLINE (616)	368,682	0	368,682	0
2000	6160	DEL ESTE NON-MID SVCE AREAS	480	L123	WELL SITE ACQUISITION-SALIDA	16,500	0	16,500	0
2000	0700	SPECIAL GAS TAX FD	430	L125	COLLEGE OVERLAY PROJECT-(NEEDH	595,000	0	507,823	87,177
2000	0700	SPECIAL GAS TAX FD	160	L126	LIGHTED CROSS WALKS (MJC)	125,000	0	121,463	3,537
2000	6510	BUS SERV FD-FIX RTE	160	L127	TRANSIT BUSES (3)	888,000	0	888,000	0
2000	0700	SPECIAL GAS TAX FD	430	L128	RAILROAD CROSSING	96,000	0	67,911	28,089
2000	0700	SPECIAL GAS TAX FD	160	L131	MILLER & EL VISTA SIGNAL UPGRA	85,000	0	84,997	3
2000	0700	SPECIAL GAS TAX FD	160	L132	SYNCHRONIZE SIGNALS OUTSD CBD	220,000	0	216,200	3,800
2000	0510	LTF STREETS & ROADS FD	310	L901	SAVE THE TRAIN	30,000	0	0	30,000
2000	1410	STREET CAP FAC FD	160	L902	HATCH/DALLAS NEW TRAFFIC SIGNL	168,000	0	163,525	4,475
2000	1410	STREET CAP FAC FD	160	L906	COLLEGE/STODDARD T/SGNL MODIFY	78,000	0	78,000	0
2000	0700	SPECIAL GAS TAX FD	160	L908	10TH/J ST TRAFFIC SIGNL MODIFY	75,000	0	75,000	0
2000	0700	SPECIAL GAS TAX FD	160	L909	OPERTN OF MODESTO ATMS(ONE YR)	125,000	0	124,958	42
2000	0700	SPECIAL GAS TAX FD	160	L914	ORANGEBURG/ROSE ROUNDABOUT	60,000	0	1,000	59,000
2000	0700	SPECIAL GAS TAX FD	430	L916	COLDWELL AVENUE - TULLY TO 9TH	534,190	0	480,074	54,116
2000	0700	SPECIAL GAS TAX FD	430	L917	KANSAS AVENUE - EMERALD TO 8TH	68,000	0	67,410	590
2000	0700	SPECIAL GAS TAX FD	430	L918	SISK ROAD - EVERGREEN TO DALE	156,000	0	150,056	5,944
2000	0700	SPECIAL GAS TAX FD	430	L919	9TH ST-MID LATERAL4 TO N.TULLY	292,000	0	292,000	0
2000	0700	SPECIAL GAS TAX FD	430	L920	FEDERALLY FUNDED PAVEMNT MAINT	143,000	0	142,812	188
2000	0700	SPECIAL GAS TAX FD	160	L922	LA LOMA/JAMES&SCENIC/19 RNDABT	293,950	0	293,353	597
2001	0520	LTF NON-MOTOR FD	310	M138	SAVE THE TRAIN	220,000	0	464	219,536
2001	0520	LTF NON-MOTOR FD	310	M139	VIRGINIA CORRIDOR	270,000	0	205,600	64,400
2001	0520	LTF NON-MOTOR FD	310	M140	NON-MOTORIZED TRANSP PROGRAM	60,000	0	2,574	57,426
2001	0700	SPECIAL GAS TAX FD	430	M144	TRAFFIC SIGN MODI -GASTAX/CMAQ	31,669	0	31,668	1
2001	0700	SPECIAL GAS TAX FD	160	M145	MADISON - MAZE & PARADISE SOL.	40,000	0	39,741	259
2001	0700	SPECIAL GAS TAX FD	430	M148	9TH STREET RAILROAD RELOCATION	66	0	66	0
2001	0700	SPECIAL GAS TAX FD	430	M150	REIMBURSE DEV IMPROV (GAS TAX)	30,000	0	4,204	25,796
2001	0700	SPECIAL GAS TAX FD	160	M153	INTERSECTION UPGRADE NEW LOC.	312	0	310	2
2001	0700	SPECIAL GAS TAX FD	160	M158	LOW COST TRAFFIC IMPR NEW LOC	20,000	0	19,912	88
2001	1130	CDBG-DIR PRGM	430	M162	HANDICAP BARRIER REMOVAL-CURB	70,000	0	0	70,000
2001	1130	CDBG-DIR PRGM	310	M163	WESTSIDE SERVICE CENTER	0	0	0	0
2001	1300	SPEC FD CAPITAL OUTLAY	180	M163	MODESTO WESTSIDE SERVICE CENTE	0	0	0	0
2001	1130	CDBG-DIR PRGM	310	M164	CDBG LOW INCOME IMPROV CIP	700,000	0	349,762	350,238
2001	1300	SPEC FD CAPITAL OUTLAY	040	M166	ELECTRONIC DOC IMAGING & MGT	156,000	0	0	156,000
2001	1300	SPEC FD CAPITAL OUTLAY	310	M172	THURMAN FIELD CAPITAL PROJECTS	50,000	0	50,000	0
2001	1390	CAP FAC FEES ADMIN FD	120	M180	CFF FEE CONSULTANT CHARGES	66,000	22,878	43,122	0

FY	FD	FD NAME	AG	ORG	ORG NAME	CUR BUD	ENC	EXP	UNOBLIG
2001	1390	CAP FAC FEES ADMIN FD	120	M181	CFF STAFF CHARGES	75,000	0	74,971	29
2001	1400	PARK FD	310	M182	MADDUX YOUTH CENTER IMPROV. TR	0	0	0	0
2001	1400	PARK FD	310	M186	ORVILLE WRIGHT NEIGHBORHOOD PA	4,648	0	4,647	1
2001	1410	STREET CAP FAC FD	430	M189	PELANDALE/MCHENRY INTERS. IMP.	549,829	0	544,493	5,336
2001	1410	STREET CAP FAC FD	430	M191	REIMBURSE DEVELOPMENT FOR IMPR	1,214,036	19,999	1,184,753	9,284
2001	1430	AIR QUALITY CAP FAC FEE FD	310	M198	CARVER BANGS NON-MOTORIZED	90,000	0	20,887	69,113
2001	2300	CAPITAL GRANTS	160	M200	AUDIBLE PEDESTRIAN SIGNAL	6,000	0	0	6,000
2001	2300	CAPITAL GRANTS	160	M202	GIS DATA COLLECTION	50,000	0	0	50,000
2001	2300	CAPITAL GRANTS	430	M206	KANSAS AVENUE - EMERALD TO 8TH	813,200	0	806,007	7,193
2001	6150	DEL ESTE MID SVCE AREAS	480	M235	SCADA IMPROVEMENTS (615)	0	0	0	0
2001	6160	DEL ESTE NON-MID SVCE AREAS	480	M240	DRILL TEST HOLES ZONE 3 (616)	15,000	0	15,000	0
2001	6160	DEL ESTE NON-MID SVCE AREAS	480	M243	INSTALL SCADA (616)	15,000	0	14,690	310
2001	6210	SEWER OP FD	480	M246	MOTORIZED GATE ACTUATORS	65,000	0	64,965	35
2001	6210	SEWER OP FD	480	M249	ANNUAL RENEWAL & REPLACE.-PRIM	450,000	0	449,937	63
2001	6210	SEWER OP FD	480	M251	ANNUAL SEWER REHABILITATION	250,411	0	250,410	1
2001	6510	BUS SERV FD-FIX RTE	160	M260	REPLACEMENT BUSES (11)	148,572	0	148,572	0
2001	6510	BUS SERV FD-FIX RTE	160	M262	BUS MAINTENANCE FACILITY	79	0	78	1
2001	1400	PARK FD	310	M271	HETCH HETCHY BIKE PROJECT	391,581	0	391,588	(7)
2001	2600	VILLAGE ONE CFD FD	040	M277	DUAL USE DRAINAGE VILLAGE 1	758,445	0	758,444	1
2001	1410	STREET CAP FAC FD	480	M279	CFF- MCHRY/PELANDALE/DALE/MC	150,000	0	5	149,995
2002	6210	SEWER OP FD	480	N135	VILLAGE ONE - EXTEND SUBTRUNKS	90,000	0	89,395	606
2002	1300	SPEC FD CAPITAL OUTLAY	180	N414	INSTALL DIESEL EMISSION SYTSEM	160,000	125,778	0	34,223
2002	6100	WATER FD	480	N656	INSTALL FLUORIDATION EQUIPMENT	707,000	0	0	707,000
2002	6150	DEL ESTE MID SVCE AREAS	480	N657	INSTALL FLUORIDATION EQUIPMENT	242,400	0	0	242,400
2002	6160	DEL ESTE NON-MID SVCE AREAS	480	N658	INSTALL FLUORIDATION EQUIPMENT	60,600	0	0	60,600
1991	621	SEWER OP FD	480	P884	WWTP IMPTS-FLEUR DE VILLE	37,372	0	27,458	9,914
2003	135	PARKS CAP FAC FD	310	P950	NORTHEAST MCHENRY NBH PARK ACQ	1,854	0	1,784	70
2003	6160	DEL ESTE NON-MID SVCE AREAS	480	Q225	SYSTEM ANALYSIS	20,000	19,400	0	600
2003	2300	CAPITAL GRANTS	160	X204	CMAQ PROJECTS - VARIOUS CFF FU	860,000	0	0	860,000
2003	2300	CAPITAL GRANTS	160	X205	CMAQ PROJECTS - VARIOUS GAS TA	489,000	0	0	489,000

86,204,435	248,998	79,906,172	6,049,265
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**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-55**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND
MASTER PLAN INCLUDED THEREIN FOR COFFEE CLARATINA
NEIGHBORHOOD PARK AND DUAL-USE BASIN.**

WHEREAS, on December 19, 2002, City of Modesto staff completed a Design Development Report, which includes the Master Plan, for Coffee Claratina Neighborhood Park and Dual-Use Basin, and

WHEREAS, prior to adopting the Design Development Report, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, on January 3, 2003, the Safety and Communities Committee recommended approval of the Coffee Claratina Neighborhood Park and Dual-Use Basin Design Development Report,

WHEREAS, by an agenda report dated January 10, 2003 from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Coffee Claratina Neighborhood Park and Dual-Use Basin Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, the Coffee Claratina Design Development Report dated December 19, 2002, is within the scope of and contemplated by the City of Modesto Urban Area General Plan, and

WHEREAS, on January 28, 2003, concurrent with this resolution, the Modesto City Council adopted Resolution No. 2003-56, finding that development and construction of the Coffee Claratina Neighborhood Park and Dual-Use Basin is in conformance with the City Of Modesto General Plan MEIR (SCH No. 92052017),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Coffee Claratina Neighborhood Park and Dual-Use Basin Design Development Report is complete and adequate, and it hereby approves the Coffee Claratina Neighborhood Park and Dual-Use Basin Design Development Report, and Master Plan included therein, a copy of which 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 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-56**

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. 92052017), THE COFFEE-CLARATINA CPD SPECIFIC PLAN MITIGATED NEGATIVE DECLARATION AND THE DUAL-USE FLOOD CONTROL/RECREATION FACILITIES MITIGATED NEGATIVE DECLARATION: PREPARATION OF CONSTRUCTION DOCUMENTS FOR COFFEE-CLARATINA NEIGHBORHOOD PARK AND DUAL-USE BASIN.

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH NO. 92052017) for the Modesto Urban Area General Plan, 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 Parks, Recreation and Neighborhoods Department, by Environmental Assessment Initial Study, EA/PR&N No. 2002-21 (“Initial Study”), reviewed the proposed development and construction of the Coffee-Claratina Neighborhood Park and Dual-Use Basin project to determine whether the proposed project is within the scope of the project covered by the Modesto Urban Area General Plan Master Environmental Impact Report, 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 on January 28, 2003, concurrently with this resolution, the City Council considered approving and adopting the Coffee-Claratina Neighborhood Park and Dual-Use Basin project, which includes: adoption of the Master Plan and Design Development Report and the award of a contract with Stantec Consulting, Inc. to prepare construction documents, and

WHEREAS, in accordance with the CEQA guidelines, on January 8, 2003, the City caused to be published a 20-day notice of the City's intent to make a finding of conformance with the Initial Study and the Modesto Urban Area General Plan EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 28, 2003 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 Initial Study No. EA/ PR&N 2002-21, entitled "Proposed Design and Development of Coffee-Claratina Neighborhood Park & Dual-Use Basin", for the proposed 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 project will have no new additional significant effect on the environment not addressed in the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood

Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58).

- B. No new or additional mitigation measures are required for the proposed project.
- C. The proposed project is within the scope of the overall development covered by the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58).
- D. No new environmental document or findings pursuant to section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the project.
- E. There are no specific features unique to this proposed project that require project specific mitigation measures. All certified mitigation measures identified in the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58) will apply to this project as appropriate.
- F. This Initial Study EA/PR&N No. 2002-21 provides substantial evidence to support findings “A, B, C, D and E” above.

A copy of said Environmental Assessment No. EA/PR&N 2002-21, entitled “Proposed Design and Development of Coffee-Claratina Neighborhood Park & Dual-Use Basin”, is on file and available in the City Clerk’s Office.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods 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 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
MICHAEL D. MILICH, City Attorney

By: Alison Barratt-Green
ALISON BARRATT-GREEN, Senior Deputy City Attorney

INITIAL STUDY AND FINDINGS

PROPOSED DESIGN AND DEVELOPMENT OF COFFEE-CLARATINA NEIGHBORHOOD PARK & DUAL-USE BASIN

EA/PR&N – 2002 - 21

December 19, 2002

1. Purpose of Initial Study:

Section 15177 of the CEQA Guidelines allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH# 92052017), adopted August 15, 1995, allows such limited review for projects in the Coffee-Claratina Comprehensive Planning District that are consistent with the General Plan and existing zoning.

Based on CEQA Guidelines Section 15150, the following documents are incorporated by reference and are available for review at the City of Modesto Parks, Recreation and Neighborhoods Department, Parks Planning and Development Division, 1010 Tenth Street, Fourth Floor, Suite 4400, Modesto, California, 95354.

On June 2, 1998, the Modesto City Council certified a Mitigated Negative Declaration for the Coffee-Claratina CPD Specific Plan (SCH#98022079). This Mitigated Negative Declaration analyzed the impacts of build-out of the Coffee-Claratina CPD Specific Plan, which includes the area in which this project is proposed. This Mitigated Negative Declaration is incorporated in this Initial Study by reference, and is referred to herein as "Coffee-Claratina Specific Plan Mitigated Negative Declaration".

Subsequently, on December 12, 2000, the City Council certified a Mitigated Negative Declaration for an amendment to the Modesto Urban Area General Plan to allow Dual-Use Flood Control/Recreation Facilities in the Modesto Urban Area and adoption of Design Standards for their development (EA/CDD-2000-58). This Mitigated Negative Declaration analyzed the impacts of developing Dual-Use Flood Control/Recreation Facilities in the Modesto Urban Area, which includes the area in which this project is proposed. This Mitigated Negative Declaration is incorporated in this Initial Study by reference, and is referred to herein as "Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration".

This Initial Study, in accordance with Section 15177 of the CEQA Guidelines, analyzes the following:

- A. Whether this project may cause additional significant effects on the environment that were not examined in the General Plan Master EIR, the Coffee-Claratina Specific Plan Mitigated Negative Declaration, or the Dual –Use Flood Control/Recreation Facilities Mitigated Negative Declaration.
- B. Whether new additional mitigation measures or alternatives will be required as a result of this project that were not previously considered in the General Plan Master EIR, the Coffee-Claratina Specific Plan Mitigated Negative Declaration, or the Dual –Use Flood Control/Recreation Facilities Mitigated Negative Declaration.
- C. Whether the proposed project is within the scope of the General Plan Master EIR, the Coffee-Claratina Specific Plan Mitigated Negative Declaration, and the Dual –Use Flood Control/Recreation Facilities Mitigated Negative Declaration.

- 2. Project title:**
Coffee-Claratina Neighborhood Park and Dual-Use Basin
- 3. Lead agency name and address:**
City of Modesto, P.O. Box 642, Modesto, CA 95353
- 4. Contact person and phone number:**
Loren R. Holt, Project Coordinator, Parks, Recreation and Neighborhoods Department,
(209) 571-5573 email: lholt@modestogov.com
- 5. Project location:**
In Stanislaus County, in the north area of Modesto, CA, south of Grecian Avenue, east of Highlights Way, and west of Drakeshire Drive. APN #: 082-08-27 (see attached Exhibit "A")
- 6. Project sponsor's name and address:**
City of Modesto
Parks, Recreation and Neighborhoods Department
P.O. Box 642, Modesto, CA 95353
- 7. General plan designation:**
The area proposed as the Coffee-Claratina Neighborhood Park and Dual-Use Basin site is designated as R-Residential on the adopted Land Use Diagram. (pg. III-114, Urban Area General Plan).
- 8. Zoning:**
SP-O - Specific Plan Overlay Zone, R-1 – Sub-zone Residential
- 9. Description of project:**
This project will construct an 8.5 acre neighborhood park and Dual-Use Basin within the Northeast McHenry Neighborhood. Park developments will include: grading, paving, underground utilities, landscaping, irrigation, game court, water play area, family picnic units, a children's play area with play apparatus, park furniture and security lighting. This project includes adoption of a Park Master Plan and Design Development Report, Construction Documents and subsequent development of the Park and Dual-Use Basin. (see attached Master Plan, Exhibit "B")
- 10. Surrounding land uses and setting:**
North: Single-family housing, zoned SP-O/subzone R-1.
South: Single-family housing, zoned R-1.
West: Single-family housing, zoned SP-O/subzone R-1.
East: Single-family housing, zoned SP-O/subzone R-1.
- 11. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)**
None.

**EVALUATION OF ENVIRONMENTAL IMPACTS:
FOR A PROPOSED SUBSEQUENT PROJECT TO MASTER EIR**

The following sections evaluate the proposed subsequent project to the City's General Plan Master EIR pursuant to CEQA Section 21157.1 (b) whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and subsequent Mitigated Negative Declarations, and, if so, make a determination pursuant to Section 21157.5 which requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

- (1) An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report and subsequent Mitigated Negative Declarations.
- (2) Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The following analysis is based on Appendix G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas in the City of Modesto's General Plan Master EIR.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

I. TRAFFIC AND CIRCULATION NEEDS – Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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- f) Result in inadequate parking capacity?
- g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

The development of this park is consistent with the General Plan, the General Plan Master EIR, and the Coffee-Claratina Specific Plan and Mitigated Negative Declaration, which anticipated that this existing vacant City Park site would be completed. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) and in the Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 6-10), are still valid for the reasons discussed below.

Discussion:

- a) The proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin development would have no impact with regard to increased impacts to the City’s roadway system because the collector street from McHenry Avenue to Coffee Road is already constructed. Access in all directions is adequately provided through Collector and Neighborhood Streets to the Major Collectors in this area. The park is a neighborhood park and it is expected that a large portion of the users will not require a vehicle trip. There are no organized sports fields identified in the park master plan, therefore traffic will be a minimum. Therefore, there will be no additional traffic and circulation impacts associated with the Coffee-Claratina Neighborhood Park and Dual-Use Basin development beyond those already studied in the Master EIR and Coffee-Claratina Specific Plan Mitigated Negative Declaration.
- b) As previously mentioned, there are no additional traffic and circulation impacts associated with the Coffee-Claratina Neighborhood Park and Dual-Use Basin development beyond those already studied in the Master EIR and Coffee-Claratina Specific Plan Mitigated Negative Declaration. Also, the Coffee-Claratina Specific Plan Mitigated Negative Declaration includes a Traffic Analysis that identifies Level of Service C or D for all project intersections. Therefore, the proposed development will have no impact to contributing to traffic exceeding the adopted level of service for the City’s General Plan street system.
- c) The proposed project is located in either R-1 or SP-O/subzone R-1 land use designations and both of these designations allow the development of park facilities as mentioned in the City of Modesto Urban Area General Plan on page III-6. Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin development would not result in a land use change from the adopted General Plan, there would be no impact relating to 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) All roads in this neighborhood have been developed in accordance with City of Modesto Standards for Road Development. Because the park development will be served by the same roadway system that is identified in the adopted General Plan and Coffee-Claratina Specific

Plan, there would be no impact in regard to substantially increased hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses.

- e) The project has a road along the west, north and east sides of the park. The design of the park is such that access is provided for emergency vehicles along each side of the park and the paths throughout the park will be able to accommodate vehicular access. Therefore, there would be no impact that would result in inadequate emergency access.
- f) The park is not designed with any on-site parking, as is typical of a neighborhood park. Highlights Way, Grecian Ave. and Drakeshire Drive will provide the off-site parking for this site. The Park side of all streets will be available for parking and at a typical parallel stall length would be able to accommodate over 60 cars. The parking provided is more than adequate for a neighborhood park, where it is anticipated that most of the users will not require a vehicle trip. Therefore, there would be no impact that would result in inadequate parking capacity.
- g) This project would actually encourage the use of alternative transportation due to the fact that currently there is no park development in this neighborhood. With the development of this park, the neighborhood will have a suitable place for recreational activities to occur within walking or biking distance of their homes, thus increasing the opportunity for alternative transportation methods to be used. The design of the park will provide bike racks at various locations throughout the park. Therefore, there would be no impact that would conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks).

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

II. DEGRADATION OF AIR QUALITY – Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- 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 non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?
- d) Expose sensitive receptors to substantial pollutant concentrations?
- e) Create objectionable odors affecting a substantial number of people?

The air quality impacts, for this development, are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR and Coffee-Claratina Specific Plan Mitigated Negative Declaration, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. The Existing Conditions, Impacts Analysis and Mitigation Measures listed for Degradation of Air Quality in the MEIR (pages IV-2-1 through IV-2-25) and Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 10) are therefore, still valid for the reasons discussed below.

Discussion:

- a) The development of Coffee-Claratina Neighborhood Park and Dual-Use Basin would not generate significantly greater traffic than what is anticipated in the Master EIR and Coffee-Claratina Specific Plan Mitigated Negative Declaration for neighborhood parks, as discussed in the Traffic and Circulation section of this Initial Study. Therefore, there would be no impact to conflict with or obstruct the implementation of the San Joaquin Valley Unified Air Pollution Control District air quality plan.
- b) The development of Coffee-Claratina Neighborhood Park and Dual-Use Basin would not generate significantly greater traffic than what is anticipated in the Master EIR and Coffee-Claratina Specific Plan Mitigated Negative Declaration for neighborhood parks, as discussed in the Traffic and Circulation section of this Initial Study. Therefore, there would be no impact that would result in the violation of any air quality standard or contribute substantially to an existing or projected air quality violation.
- c) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard for neighborhood parks with Dual-use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, it will not generate significantly greater traffic than what is anticipated in the Master EIR and subsequent Mitigated Negative Declarations. Therefore, there would be no impact to a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).
- d) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard for neighborhood parks as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact to increase exposure of sensitive receptors to substantial pollutant concentrations beyond that which was studied in the Master EIR and subsequent Mitigated Negative Declarations.
- e) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger and would include no elements other than the standard for neighborhood parks as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan, and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact to creation of objectionable odors affecting a substantial number of people.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

III. GENERATION OF NOISE – Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Because the proposed project is consistent with the General Plan and the Coffee-Claratina Specific Plan in land use and intensity, the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. As stated in the Traffic and Circulation section, this project will not significantly increase vehicle trips, so it is anticipated that noise from this source would not increase. Therefore, the project will not create additional significant noise impacts, and the Mitigation Measures listed, for Generation of Noise, in the MEIR (pages IV-3-1 through IV-3-33) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 10-11) are therefore still valid for the reasons discussed below.

Discussion:

- a) Because the elements and uses of the park are consistent with the standards that are set by the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, their development would be consistent with what was analyzed in the Master EIR and subsequent Mitigated Negative Declarations. Therefore, their development would result in no impact to exposure of persons

to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

- b) Because the elements and uses of the park are consistent with the standards that are set by the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, their development would be consistent with what was analyzed in the Master EIR and subsequent Mitigated Negative Declarations. Therefore, their development would result in no impact to exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
- c) Because the elements and uses of the park are consistent with the standards that are set by the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, their development would be consistent with what was analyzed in the Master EIR and subsequent Mitigated Negative Declarations. Therefore, their development would result in no impact to a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- d) Because the elements and uses of the park are consistent with the standards that are set by the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, their development would be consistent with what was analyzed in the Master EIR and subsequent Mitigated Negative Declarations. Therefore, their development would result in no impact to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
- e) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would be located outside the noise contour of the Airport, (Figure 3-2 MEIR) analyzed in the General Plan Master EIR, its development would result in no impact to an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and the project would not expose people residing or working in the project area to excessive noise levels.
- f) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be located in the vicinity of any private airstrips, its development would result in no impact to a private airstrip, nor would the project expose people residing or working in the project area to excessive noise levels.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

IV. LOSS OF PRODUCTIVE AGRICULTURAL LAND - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- 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?

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?

The Urban Area General Plan MEIR recognizes that loss of agricultural land is a significant and unavoidable effect under CEQA, even with the adoption of all feasible mitigation measures. As such, overriding consideration findings have been adopted for the General Plan, and therefore, this project is covered by that statement of overriding consideration. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed for Loss of Productive Agricultural Land in the MEIR (pages IV-4-1 through IV-4-16) and Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 11-12) are still valid for the reasons discussed below.

Discussion:

- a) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would be developed to the Design Standards for Dual-Use Flood Control/Recreation Facilities and co-located to maximize land use acreage within the Coffee-Claratina Specific Plan Area of the adopted General Plan, which is covered by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration, there would be no impact to 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) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would be developed to the Design Standards for Dual-Use Flood Control/Recreation Facilities and co-located to maximize land use acreage within the Coffee-Claratina Specific Plan Area of the adopted General Plan, which is covered by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration, there would be no impact to existing zoning for agricultural use, or a Williamson Act contract.
- c) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would be developed to the Design Standards for Dual-Use Flood Control/Recreation Facilities and co-located to maximize land use acreage within the Coffee-Claratina Specific Plan Area of the adopted General Plan, which is covered by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration, there would be no impact to changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

V. INCREASED DEMAND FOR WATER SUPPLIES - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- a) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- b) Require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effect?

The Urban Area General Plan MEIR recognizes that additional water supply to the planned urbanized area is a significant and unavoidable effect under CEQA, even with the adoption of all feasible mitigation measures. As such, overriding consideration findings have been adopted for the General Plan and therefore, this project is covered by that statement of overriding consideration. The proposed project will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for Increased Demand for Water Supplies in the MEIR (pages IV-5-1 through IV-5-11) and Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 12) are, therefore, still valid for the reasons discussed below.

Discussion:

- a) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact to water supplies available to serve the project from existing entitlements and resources, and no new or expanded entitlements would be needed.
- b) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact to any requirement or need for the construction of new water treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

VI. INCREASED DEMAND FOR SANITARY SEWER - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- a) 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?
- b) Exceed wastewater treatment requirements of applicable Regional Water Quality Control Board?
- c) 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 effect?

The proposed project will create no additional demand for sewer capacity not identified in the MEIR or the Coffee-Claratina Specific Plan Mitigated Negative Declaration. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for Increased Demand for Sanitary Sewer Services in the MEIR (pages IV-6-1 through IV-6-9) and Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 12-13) are therefore still valid, for the reasons discussed below.

Discussion:

- a) The proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will have no impact to increased demand for sanitary sewer service over what was assumed in the MEIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration because it would not be any larger than the standard and would include no elements other than the standard for neighborhood parks as outlined in the City of Modesto Urban Area General Plan and the Coffee-Claratina Specific Plan. Therefore, project development would result in a determination by the wastewater treatment provider which serves or may serve the project (City of Modesto) that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- b) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks as outlined in the City of Modesto Urban Area General Plan and the Coffee-Claratina Specific Plan, the project would not generate increased demand for sanitary sewer services over what was assumed in the Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the project would result in no impact to wastewater treatment requirements of the applicable Regional Water Quality Control Board.
- c) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks as outlined in the City of Modesto Urban Area General Plan and the Coffee-

Claratina Specific Plan, the project would not generate increased demand for sanitary sewer services over what was assumed in the Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the project would result in no impact to a requirement for or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effect.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

The project is not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Furthermore, the Urban Area General Plan MEIR states that all impacts to sensitive wildlife and plant habitat can be mitigated. Therefore, the Existing Conditions, Impact Analysis, and the Mitigation Measures for the Loss of Sensitive Wildlife and Plant Habitat in the MEIR (pages IV-7-1 through IV-7-30) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 13) are still valid for the reasons discussed below.

Discussion:

- a) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- b) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to having a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- c) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to having a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- d) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed

by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact, in regard to interfering 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) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact above and beyond the impacts outlined in the MEIR in regard to a conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- f) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "potential biological resource study areas" (as defined in Figure 7-1 of the MEIR), the proposed project would not result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to a conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

VIII. DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §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?

The project is not located in an Archaeological Resource Zone, as presented in Figure 8-1 of the MEIR. Therefore, the Existing Conditions, Impact Analysis, and the Mitigation Measures for the Disturbance of Archaeological or Historical Sites in the MEIR (pages IV-8-1 through IV-8-21) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 13) are still valid, for the reasons discussed below.

Discussion:

- a) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "archaeological resource zones" (as defined in Figure 8-1 of the MEIR), the proposed project would not result in any effect on disturbance of archaeological or historical sites that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to cause a substantial adverse change in the significance of a historical resource as defined in §15064.5.
- b) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "archaeological resource zones" (as defined in Figure 8-1 of the MEIR), the proposed project would not result in any effect on disturbance of archaeological or historical sites that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact, above what has already been studied in the MEIR, to cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.
- c) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "archaeological resource zones" (as defined in Figure 8-1 of the MEIR), the proposed project would not result in any effect on disturbance of archaeological or historical sites that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact, above what has already been studied in the MEIR, to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- d) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of "archaeological resource zones" (as defined in Figure 8-1 of the MEIR), the proposed project would not result in any effect on disturbance of archaeological or historical sites that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact, above what has already been studied in the MEIR, to disturb any human remains, including those interred outside of formal cemeteries.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

IX. DRAINAGE, FLOODING AND WATER QUALITY - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be 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 which would not support the land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of course of a stream or river, in a manner which would result in a substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

The proposed project will have no impact to Drainage, Flooding, and Water Quality. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages IV-9-1 through IV- 9-23) are still valid for the reasons listed below.

Discussion:

- a) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to violate any water quality standards or waste discharge requirements.
- b) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be 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 which would not support existing land uses or planned uses for which permits have been granted).
- c) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to 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 which would result in substantial erosion or siltation on- or off-site.
- d) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to 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.
- e) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any

effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to substantially degrade water quality.

- f) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to placing 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.
- g) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to placing within a 100-year flood hazard area structures which would impede or redirect flood flows.
- h) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact in regard to exposing 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.
- i) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin will be developed and operated to the proposed Design Standards for Dual-Use Flood Control/Recreation Facilities and Neighborhood Parks and will be located in the Planned Urbanizing Area of the adopted Urban Area General Plan outside of any "flood potential study areas" (as defined in Figure 9-1 of the MEIR), the proposed project would not result in any effect to Drainage, Flooding and Water Quality that was not already analyzed by the General Plan Master EIR and the Coffee-Claratina Specific Plan Mitigated Negative Declaration. Therefore, the proposed project would have no impact to inundation by seiche, tsunami, or mudflow.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

X. INCREASED DEMAND FOR STORM DRAINAGE - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

a) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

The Existing Conditions, Impacts Analysis and the Mitigation Measures for the Increased Demand for Storm Drainage listed in the MEIR (pages IV-10-1 through IV- 10-8) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 13-14) are still valid for the reasons discussed below.

Discussion:

a) The proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin is designed to supplement planned regional drainage basins, and will be developed based on the Design Standards for Dual-Use Flood Control/Recreation Facilities, which are consistent with Table 9-4 of the MEIR, thus providing increased storage capacity for times of high storm events. The project will not present any new impacts that have not already been addressed in the Urban Area General Plan MEIR, the Coffee-Claratina Specific Plan Mitigated Negative Declaration or the Dual-Use Basin Mitigated Negative Declaration. Therefore, the project would have no impact to any requirements for or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effect.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XI. INCREASED DEMAND FOR PARKS AND OPEN SPACE - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts that would:

a) Would the project 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) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The demand for parks and open space in the Northeast McHenry Neighborhood will be met with the development of the 8.5 acre Coffee-Claratina Neighborhood Park and Dual-Use Basin. This project does not create an additional need for parks and open space and it satisfies the current policies and standards that are set forth in the General Plan and the Coffee-Claratina Specific Plan. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Increased Demand for Parks and Open Space in the MEIR (pages IV-11-1 through IV- 11-11) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page14) are still valid, for the reasons discussed below.

Discussion:

- a) Coffee-Claratina Neighborhood Park and Dual-Use Basin will be designed pursuant to the Design Standards for Dual-Use Flood Control/Recreation Facilities and provides for an effective increase in the amount of available park and open space land since dual-use facilities provide for sharing of uses between storm drainage and recreation lands. Therefore, the project would have no impact to increasing 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) Coffee-Claratina Neighborhood Park and Dual-Use Basin will be designed pursuant to the Design Standards for Dual-Use Flood Control/Recreation Facilities and provides for an effective increase in the amount of available park and open space land since dual-use facilities provide for sharing of uses between storm drainage and recreation lands. Therefore, the project would have no impact to the requirement for the construction or expansion of recreational facilities which might have an adverse effect on the environment.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XII. INCREASED DEMAND FOR SCHOOLS - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

- a) Would the project result in substantial adverse physical impacts associated with the provisions of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for school services.

This development will not create any additional demand for schools. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Increased Demand for Schools in the MEIR (pages IV-12-1 through IV- 12-11) and the Coffee-Claratina Specific Plan Mitigated Negative Decalaration (page 14) are still valid, for the reasons discussed below.

Discussion:

- a) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact resulting in substantial adverse physical impacts associated with the provisions of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for school services.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XIII. INCREASED DEMAND FOR POLICE SERVICES - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

- a) Would the project result in substantial adverse physical impacts associated with the provisions of new or physically altered police service facilities, need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

Because the project is consistent with the Urban Area General Plan and the Coffee-Claratina Specific Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Increased Demand for Police Services in the MEIR (pages IV-13-1 through IV- 13-8) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 14) are therefore still valid, for the reasons discussed below.

Discussion:

- a) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities, there would be no impact associated with the provisions of new or physically altered police service facilities, need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XIV. INCREASED DEMAND FOR FIRE SERVICES - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

a) Would the project result in substantial adverse physical impacts associated with the provisions of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

Because the project is consistent with the Urban Area General Plan and the Coffee-Claratina Specific Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Increased Demand for Fire Services in the MEIR (pages IV-14-1 through IV- 14-9) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 14) are therefore still valid, for the reasons discussed below.

Discussion:

a) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Therefore, the project will result in no impact associated with the provisions of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XV. GENERATION OF SOLID WASTE - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

a) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

b) Comply with federal, state, and local statutes and regulations related to solid waste?

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Generation of Solid Waste in the MEIR (pages IV-15-1 through IV- 15-10) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 15) are therefore still valid, for the reasons discussed below.

Discussion:

- a) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Therefore, the project will result in no impact to increase demand for service by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs.
- b) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Therefore, the project will result in no impact to compliance with federal, state, and local statutes and regulations related to solid waste.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XVI. GENERATION OF HAZARDOUS MATERIALS - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

- 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 handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- d) 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?

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Figure 16-1 of the Urban Area General Plan MEIR shows the potential hazardous contamination study areas within the General Plan Area. Coffee-Claratina Neighborhood Park and Dual-Use Basin does not fall within one of these potential hazardous contamination study areas and will not result in additional hazardous materials generated beyond those identified. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for the Generation of Hazardous Materials in the MEIR (pages IV-16-1 through IV- 16-15), the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page15) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (pages 24-25) are therefore still valid, for the reasons discussed below.

Discussion:

- a) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Also, the park and basin will be constructed and maintained to the standards set forth in the City of Modesto Specifications and the Dual-Use Flood Control/Recreation Facilities. Therefore, the project will result in no impact greater than that studied in the General Plan MEIR to create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- b) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Also, the park and basin will be constructed and maintained to the standards set forth in the City of Modesto Specifications and the Dual-Use Flood Control/Recreation Facilities. Therefore, the project will result in no impact greater than that studied in the General Plan MEIR to 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) The nearest school to Coffee-Claratina Neighborhood Park and Dual-Use Basin is Stockard Coffee Elementary School, which is located seven tenths of a mile from the proposed project. There are no proposed school sites within one-quarter mile of the proposed site and assuming the current development standards for schools are adhered to there will not be one proposed. Therefore, there is no impact greater than that studied in the General Plan MEIR to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- d) Coffee-Claratina Neighborhood Park and Dual-Use Basin is not located in a Potential Hazardous Contamination Study Area, as presented in Figure 16-1 of the MEIR. Therefore, there is no impact to being 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, the project would not create a significant hazard to the public or the environment.
- e) Coffee-Claratina Neighborhood Park and Dual-Use Basin is not located within the Modesto City-County Airport Land Use Planning Area Boundary as indicated in the Airport Land Use Commission Plan, adopted August 3, 1978. Therefore, there is no impact to a project located within an airport land use plan, which would result in a safety hazard for people residing in, working in, or visiting the project area.
- f) Because the proposed Coffee-Claratina Neighborhood Park and Dual-Use Basin would be located in the Planned Urbanizing Area of the General Plan, and there are no private airstrips within or adjacent to the Modesto General Plan Area, its development would result in no impact to a private airstrip, or to result in a safety hazard for people residing or working in the project area.
- g) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Also, the park and basin will be constructed and maintained to the standards set forth in the City of Modesto Specifications and the Dual-Use Flood Control/Recreation Facilities. Therefore, there would be no impact that would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- h) Coffee-Claratina Neighborhood Park and Dual-Use Basin would not be any larger than the standard and would include no elements other than the standard for neighborhood parks with Dual-Use Basins as outlined in the City of Modesto Urban Area General Plan, the Coffee-Claratina Specific Plan and the Design Standards for Dual-Use Flood Control/Recreation Facilities. Also, the park and basin will be constructed and maintained to the standards set forth in the City of Modesto Specifications and the Dual-Use Flood Control/Recreation Facilities. Therefore, there is no impact, beyond that already studied, to 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.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XVII. LANDSLIDES AND SEISMIC ACTIVITY - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) 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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Landslide? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Be located on a geological unit or 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

This use will result in no additional potential for exposing people to landslides or earthquake-related hazards such as liquefaction beyond those identified. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for Landslides and Seismic Activity in the MEIR (pages IV-17-1 through IV- 17-11) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (pages 15-16) are therefore still valid, for the reasons discussed below.

Discussion:

- a) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan, and, per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to expose people or structures

to potential substantial adverse effects, including the risk of loss, injury, or death involving 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.

- b) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan, and, per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.
- c) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan, and, per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction.
- d) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan and the Coffee-Claratina Specific Plan, will be consistent in use and intensity with Neighborhood Park standards, and will be constructed to City standards, there is no impact to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.
- e) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan and the Coffee-Claratina Specific Plan, will be consistent in use and intensity with Neighborhood Park standards, and will be constructed to City standards, there is no impact to result in substantial soil erosion or the loss of topsoil.
- f) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan and the Coffee-Claratina Specific Plan, will be consistent in use and intensity with Neighborhood Park standards, and will be constructed to City standards, there is no impact to being located on a geological unit or 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.
- g) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan and the Coffee-Claratina Specific Plan, will be consistent in use and intensity with Neighborhood Park standards, and will be constructed to City standards, there is no impact to being located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.
- h) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin will be located within the boundaries of the Urban Area General Plan and the Coffee-Claratina Specific Plan, will be consistent in use and intensity with Neighborhood Park standards, and will be constructed to City standards, there is no impact to soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XVIII. ENERGY - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations, will the project result in increased impacts to:

- a) Use of fuel, water, or energy in a wasteful manner.
- b) Encourage activities which result in the use of large amounts of fuel, water, or energy.

The Existing Conditions, Impacts Analysis and the Mitigation Measures listed for Energy in the MEIR (pages IV-18-1 through IV- 18-6) and the Coffee-Claratina Specific Plan Mitigated Negative Declaration (page 16) are still valid, for the reasons discussed below.

Discussion:

- a) Because service providers indicated ability to serve the area covered by the MEIR, and because of the low energy requirements of parks and storm drainage facilities, there would be no impact to use of fuel, water, or energy in a wasteful manner.
- b) Because service providers indicated ability to serve the area covered by the MEIR, and because of the low energy requirements of parks and storm drainage facilities, there would be no impact to encouraging activities which result in the use of large amounts of fuel, water, or energy.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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Issues:

XIX. MANDATORY FINDINGS OF SIGNIFICANCE - Compared to the Master EIR certified for the Modesto Urban Area General Plan and subsequent Mitigated Negative Declarations:

- 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?

Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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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 which will cause substantial adverse effects on human beings, either directly or indirectly?

Discussion:

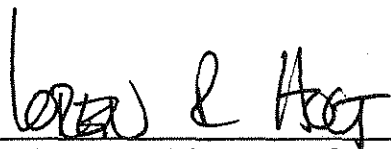
- a) As set forth in the MEIR, the Coffee-Claratina Specific Plan Mitigated Negative Declaration and this Initial Study, Coffee-Claratina Neighborhood Park and Dual-Use Basin does not have the potential to further degrade the quality of the environment. This project is not located in biological, archeological, hazardous materials or any otherwise significant study areas.
- b) Because Coffee-Claratina Neighborhood Park and Dual-Use Basin would be consistent with Neighborhood Park Plan Standards as outlined in the Urban Area General Plan and Design Standards for Dual-Use Flood Control/Recreation Facilities, the project does not have impacts which would be considered cumulatively considerable. The MEIR prepared on the General Plan specifically projects development of the entire General Plan by the year 2025, and this project is a small increment of that development. Since the adoption of the MEIR, there are no major projects proposed in the vicinity of this project which would further exacerbate impacts which have not already been reviewed.
- c) Finally, as set forth in the MEIR, the Coffee-Claratina Specific Plan, the Design Standards for Dual-Use Flood Control/Recreation Facilities and this Initial Study, it is not expected that the project will cause substantial adverse effects on human beings, either directly or indirectly.

XIX. CONCLUSION/DETERMINATIONS OF FINDINGS

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

- a. The proposed project will have no new additional significant effect on the environment not addressed in the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58).
- b. No new or additional mitigation measures are required for the proposed project.
- c. The proposed project is within the scope of the overall development covered by the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58).
- d. No new environmental document or findings pursuant to section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the project.
- e. There are no specific features unique to this proposed project that require project specific mitigation measures. All certified mitigation measures identified in the General Plan Master Environmental Impact Report (SCH#92052017), the Coffee-Claratina CPD Specific Plan Mitigated Negative Declaration (SCH#98022079) and the Dual-Use Flood Control/Recreation Facilities Mitigated Negative Declaration (EA/CDD-2000-58) will apply to this project as appropriate.
- f. This Initial Study EA/PR&N No. 2002-21 provides substantial evidence to support findings "A, E C, D and E" above.

Signature: _____



Loren R. Holt, Project Coordinator
Parks, Recreation and Neighborhoods Department
City of Modesto

Date: _____

Dec 20, 2002

EXHIBIT "A"
PROJECT SITE MAP

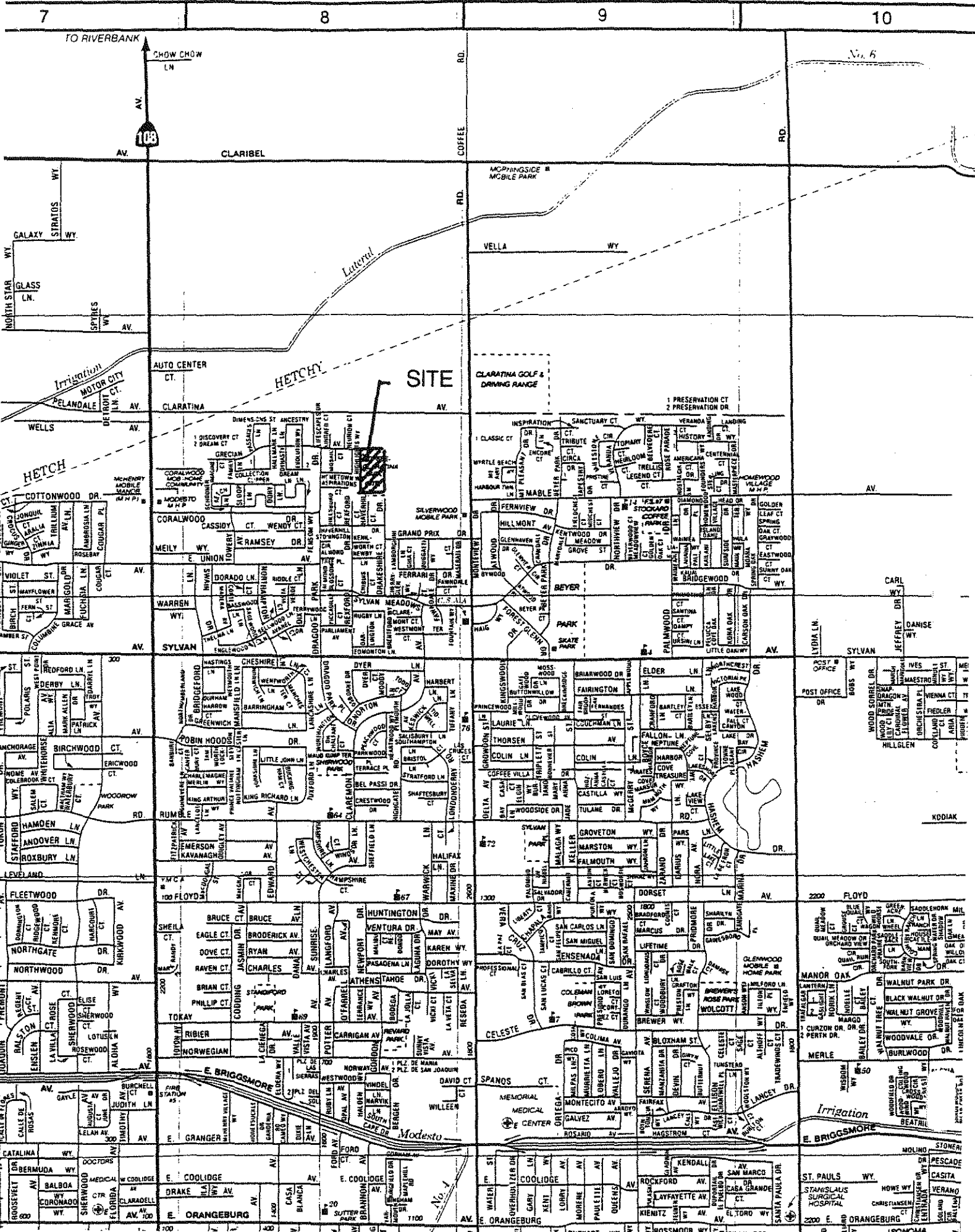
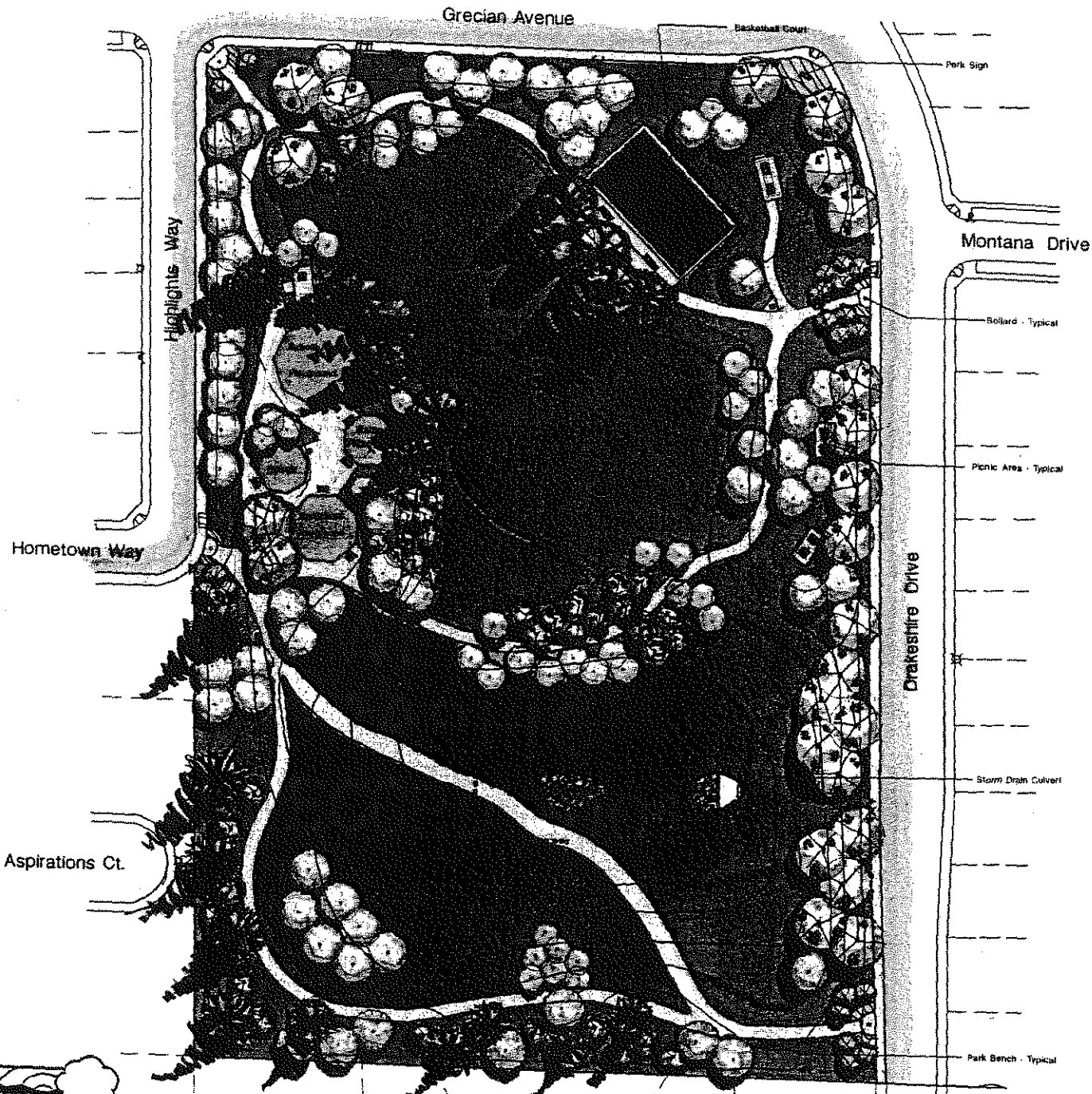


EXHIBIT "B"

**COFFEE-CLARATINA NEIGHBORHOOD PARK
AND DUAL-USE BASIN MASTER PLAN**



Greccian Avenue

Basketball Court

Park Sign

Hightlights Way

Montana Drive

Bollard - Typical

Hometown Way

Picnic Area - Typical

Drakestire Drive

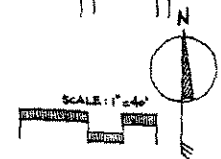
Storm Drain Culvert

Aspirations Ct.

Park Bench - Typical



COFFEE - CLARATINA PARK & DUAL-USE BASIN MASTER PLAN



**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-57**

A RESOLUTION APPROVING AN AGREEMENT WITH STANTEC CONSULTING, INC. FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES TO PREPARE CONSTRUCTION DOCUMENTS FOR COFFEE CLARATINA NEIGHBORHOOD PARK AND DUAL-USE BASIN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the City owns an approximately 8.5-acre neighborhood park and dual-use storm water basin site in the Northeast McHenry Neighborhood, at the northeast corner of Grecian Way and Drakeshire Drive, and

WHEREAS, the Master Plan and Design Development Report for Coffee-Claratina Neighborhood Park and Dual-Use Basin (“project”) were approved by the City Council on January 28, 2003, and

WHEREAS, staff now desires to enter into an agreement to complete the construction documents for the park, and

WHEREAS, Stantec Consulting, Inc., professional landscape architectural firm, has agreed to prepare the construction documents at a cost not to exceed \$94,500, and

WHEREAS, the Safety and Communities Committee met on January 3, 2003, and supported the recommendation to enter into an agreement with Stantec Consulting, Inc. for the preparation of construction documents for Coffee-Claratina Neighborhood Park and Dual-Use Basin,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement with Stantec Consulting, Inc. for the preparation of construction documents for Coffee-Claratina Neighborhood Park and Dual-Use Basin, at a cost not to exceed \$94,500.

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 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-58**

**A RESOLUTION ACCEPTING THE FIVE-YEAR PLAN FOR THE MODESTO
CENTRE PLAZA.**

WHEREAS, a Five-Year Plan for the Modesto Centre Plaza was last prepared and adopted in 1997, and

WHEREAS, a new Five-Year Plan has been prepared by Dakota Enterprises, Inc., and

WHEREAS, in order to have a guideline for the operations and budget of the City's community/convention facility, a new Five-Year Plan should be adopted, and

WHEREAS, the Safety and Communities Committee met on January 6, 2003, and supported the recommendation to accept the new Five-Year Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Five-Year Plan for the Modesto Centre Plaza.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Mayor Sabatino

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: Fisher

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-59**

**A RESOLUTION AMENDING EXHIBIT "B" OF MODESTO CITY COUNCIL
RESOLUTION NO. 86-1184 TO REVISE RENTAL RATES AT THE MODESTO
CENTRE PLAZA, AND RESCINDING RESOLUTION NO 91-544.**

WHEREAS, on October 14, 1986, the Council, by Resolution No. 86-1184,
approved the Modesto Community Center Policies and Rental rates, and

WHEREAS, on May 22, 1990, the Council, by Resolution No. 90-546, amended
Exhibit "B" of Council Resolution No. 86-1184, and

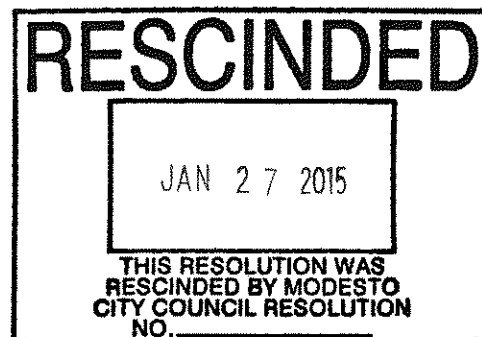
WHEREAS, on August 26, 1991, the Council, by Resolution No. 91-544,
amended **Exhibit "B"** of Council Resolution No. 86-1184 and rescinded Resolution No.
90-546, and

WHEREAS, a Five Year Plan ("Plan") for operation and management of the
Modesto Centre Plaza ("Centre") was presented to the City Council on January 28, 2003,
and

WHEREAS, this Plan recommends increasing rental rates at the Centre for all
persons to whom a license for Modesto Centre Plaza use is issued after July 1, 2003, and

WHEREAS, the Safety and Communities Committee met on January 6, 2003, and
supported the recommended rental rate increase, and

WHEREAS, said matter was considered at a public hearing by the City Council at
its meeting on January 28, 2003, 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 **Exhibit "B"** of Modesto City Council Resolution No. 86-1184 is hereby amended and that the revised rental rates for use of the Modesto Centre Plaza are hereby approved as set forth on **Exhibit "B"** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that all other provisions of Modesto City Council Resolution No. 86-1184 not in conflict with this resolution shall remain in full force and effect.

BE IT FURTHER RESOLVED that Resolution No. 91-544 adopted on August 27, 1991, is hereby rescinded effective June 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Mayor Sabatino

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Modesto Centre Plaza Rental Rates

Upper Level	Private Full Day	Private Half Day	Nonprofit Full Day	Nonprofit Half Day	Rehearsal Day Private	Rehearsal Day Nonprofit	Overtime Rate per hour
Harvest Hall 16,000 sq ft (Includes TR, SJ & SR)	\$1,850	\$1,375	\$1,150	\$850	\$895	\$550	\$145
Tuolumne Room 9,600 sq ft	\$1,110	\$825	\$690	\$510	\$525	\$335	\$85
Stanislaus Room 3,400 sq ft	\$390	\$295	\$245	\$180	\$185	\$115	\$40
San Joaquin Room 2,000 sq ft	\$225	\$180	\$145	\$120	110	70	\$40
Arbor Theatre 4,000 sq ft	\$460	\$350	\$290	\$215	\$220	\$140	\$40
Grand Lobby Only* 6,300 sq ft	\$1,850	\$1,375	\$1,150	\$850	\$885	\$550	\$75
Grand Lobby 6,300 sq ft (When other rooms are included)	\$800	\$540	\$450	\$340	\$580	\$550	\$75
Park Plaza Only* Park Plaza	\$1,850	\$1,375	\$1,150	\$850	\$885	\$550	\$85
(When other rooms are included)	\$800	\$540	\$450	\$340	\$580	\$550	\$85

*This rate applies for those that are not renting the Harvest Hall.

Lower Level	Private Full Day	Private Half Day	Nonprofit Full Day	Nonprofit Half Day	Rehearsal Day Private	Rehearsal Day Nonprofit	Overtime Rate per hour
All Lower Level Meeting Rooms 4,000 sq ft (Includes Pistache, Ginkgo, Ash, and Magnolia)	\$615	\$455	\$360	\$275	\$285	\$175	\$40
Pistache AND Ginkgo Rooms 2,400 sq ft	\$430	\$325	\$255	\$195	\$210	\$125	\$40
Pistache Room 1,200 sq ft	\$215	\$180	\$125	\$120	\$115	\$70	\$40
Ginkgo Room 1,200 sq ft	\$215	\$180	\$125	\$120	\$115	\$70	\$40
Ash AND Magnolia Rooms 1,600 sq ft	\$290	\$215	\$175	\$125	\$140	\$80	\$40
Ash Room 800 sq ft	\$180	\$180	\$120	\$120	\$105	\$70	\$40
Magnolia Room 800 sq ft	\$180	\$180	\$120	\$120	\$105	\$70	\$40

1. All those that use the Modesto Centre Plaza caterer to provide a full meal will receive a rental discount equal to 10% of their catering cost before taxes and service charges are added.
2. Those holding ticketed events will be charged the listed rental rate of 10% or gross ticket sales, whichever is greater.
3. All events with commercial booths will be charged the listed rental rate or \$.26 per net square foot, whichever is greater.
4. Half-day rates are not available on Friday, Saturday, or Sunday.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-60**

**A RESOLUTION ACCEPTING THE MODESTO CENTRE PLAZA SUBSIDY
RECOMMENDATIONS AS PRESENTED IN THE FIVE-YEAR PLAN.**

WHEREAS, a Five-Year Plan for the Modesto Centre Plaza was last prepared and adopted in 1997, and

WHEREAS, a new Five-Year Plan has been prepared by Dakota Enterprises, Inc., and

WHEREAS, this plan includes a projected operating subsidy from the City's General Fund, and

WHEREAS, the recommended subsidy is shown on "Exhibit A" attached hereto and incorporated herein by reference, and

WHEREAS, the Safety and Communities Committee met on January 6, 2003, and supported the recommendation to accept the subsidy as proposed in the Five-Year Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the General Fund subsidy as shown on "Exhibit A" and recommended in the Five-Year Plan for the Modesto Centre Plaza.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Mayor Sabatino

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Exhibit A

Modesto Centre Plaza-Five Year Business Plan
Expenses and Revenues

Combined Organizations 3412, 3413, 3414

FY 97-98 through FY 07-08

+2.5% and 3.0% Increases with a 20% Rate Increase in FY 03/04

		20% Rate Incr.										
		FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	2.5%	2.5%	2.5%	3.0%	3.0%
		Actual	Actual	Actual	Actual	Actual	Budget	FY 03-04 Forecast	FY 04-05 Forecast	FY 05-06 Forecast	FY 06-07 Forecast	FY 07-08 Forecast
Fund 670/6700 Expenses	Full Time Personnel	267,249	293,403	273,090	360,292	451,417	521,544	534,583	547,947	561,646	578,495	595,850
	Benefits	103,742	102,305	97,030	113,708	125,476	138,701	142,169	145,723	149,366	153,847	158,462
	Part Time Personnel	253,661	264,247	210,054	239,004	227,317	244,222	250,328	256,586	263,000	270,890	279,017
Personnel		624,652	659,955	580,174	713,002	804,210	904,467	927,079	950,256	974,012	1,003,232	1,033,329
	Utilities	187,958	164,081	129,822	162,908	140,857	170,376	174,635	179,001	183,476	188,981	194,650
	R&M Outside Forces	107,592	144,562	110,302	110,963	142,943	133,825	137,171	140,600	144,115	148,438	152,891
	Other Services	145,173	137,428	158,516	138,760	141,319	159,435	163,421	167,506	171,694	176,845	182,160
Services		440,723	446,071	398,640	412,629	425,119	463,636	475,227	487,108	499,285	514,264	529,692
	Supplies	54,570	82,485	62,375	64,601	59,718	64,999	66,624	68,290	69,997	72,097	74,260
	Dues & Insurance	39,039	28,691	21,709	24,443	32,594	40,015	41,015	42,041	43,092	44,385	45,716
	5000	10,779	2,066	8,344	13,208	185,526	0	0	0	0	0	0
Supplies & Other		104,388	113,242	92,428	102,252	277,838	105,014	107,639	110,330	113,089	116,481	119,976
	FF&E	0	52,000	50,445	52,187	63,000	63,711	63,091	85,168	87,297	89,916	92,614
Total Expenses		1,169,763	1,271,268	1,121,687	1,280,070	1,570,167	1,536,828	1,593,036	1,632,861	1,673,683	1,723,894	1,775,610
Revenues												
	Services	13,531	16,683	11,855	23,966	15,245	20,500	21,013	21,538	22,076	22,739	23,421
	Commissions	144,189	138,677	178,142	190,624	191,383	180,000	184,500	189,113	193,840	199,656	205,645
	Rents	364,257	389,870	404,468	404,398	376,800	390,000	479,700	491,693	503,985	519,104	534,677
	Interfund Labor	2,235	460	2,204	49,389	108,883	117,212	120,142	123,146	126,225	130,011	133,912
	Event Insurance	8,546	7,265	4,645	4,000	4,295	6,000	6,150	6,304	6,461	6,655	6,855
	Parking Revenue	92,346	115,481	27,921	0	0	0	0	0	0	0	0
	Other Revenue	629	6,017	16,516	47,331	46,486	23,000	23,575	24,164	24,768	25,512	26,277
	Tech Services	13,963	15,958	14,543	16,231	19,442	16,000	16,400	16,810	17,230	17,747	18,280
	Tech Commissions	5,124	1,729	33,307	21,680	32,165	25,000	25,625	26,266	26,922	27,730	28,562
	Tech Rental	44,535	53,281	43,628	43,771	51,845	45,000	46,125	47,278	48,460	49,914	51,411
Total Revenues		689,355	745,421	737,229	801,390	846,543	822,712	923,230	946,311	969,968	999,067	1,029,039
Annual Subsidy Needed		480,408	525,847	384,458	478,680	723,624	714,116	669,806	686,551	703,715	724,826	746,571
	Actual transferred:	558,740	701,898	717,000	646,000	676,000	706,486					
	Savings:	78,332	176,051	332,542	167,320	(47,624)	(7,630)					

Note: Expenditures and Revenues for Centre Plaza Parking are included through Fiscal Year 1999/2000

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-61**

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(558) (DAVID A. CERUTTI)

WHEREAS, a verified application for an amendment to Section 27-3-9 of the Zoning Map was filed by David A Cerutti on May 24, 2002, to reclassify from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(558), to allow a car wash in conjunction with an existing convenience store and service station, property located at the southwest corner of N. Santa Cruz Avenue and La Loma Avenue, described as follows:

C-1 to P-D(558)

Beginning at the Northwestern corner of Lot 1, Block 2088 of Coey Tract, as per map thereof, filed April 8, 1946 in Volume 14 of Maps, at Page 48, Stanislaus County Records; thence North 44 degrees 48' 30" East, 14.05 feet, to a line which is parallel with and 10.00 feet, measured at right angles, Northerly from the Northern line of said Lot 1; thence along said parallel line, South 89 degrees 50' East, 109.10 feet to the Northeasterly line of the Coey Tract; thence along said Northeasterly line, South 42 degrees 38' 15", 31.17 feet to the Eastern lot of said Lot 1; thence along said Eastern line South 0 degrees 33' E 137.09' to the Southeastern corner of Lot 3 of the Coey Tract; thence along the Southern line of said Lot 3 North 89 degrees 50' West 140.00 feet to the Southwestern corner of said Lot 3; thence North 0 degrees 33' West, 149.96 feet to the point of beginning.

APN: 108-16-12; 108-16-13

WHEREAS, after a public hearing held on December 16, 2002, 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. 2002-55, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The requested planned development zone for a car wash in conjunction with an existing convenience store and service station is located on a minor collector street, and would not result in adverse impacts to the adjacent residential neighborhood(s).
2. The proposed planned development zone, by reason of its site design and conditions of approval, is compatible with existing and potential surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 28, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of David A. Cerutti 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. 2002-55 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3279-C.S. on the 28th day of January, 2003, reclassifying the above-described property from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(558).

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(558), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and elevations titled "Crystal Clean" as amended in red, stamped approved by the City Council.
2. Fences or walls shall be constructed prior to occupancy and shall be as follows: six-foot-high wood fence with decorative masonry pilasters at 16-

foot on center along the south property line; eight-foot-high masonry wall along the west property lines.

3. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Chief Building Official. Screen landscaping shall be installed along the west property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Director of Community and Economic Development Department.
6. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of stormwater, as approved by the Operations and Maintenance Director. Storm drain improvements shall be constructed in accordance with the approved plans.
7. Existing overhead and underground electric facilities shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Engineering and Transportation Director.
8. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
9. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
10. Ten-foot public utility easements and four-foot planting easements located within the ten-foot public utility easements shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
11. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the Engineering and Transportation Director.

12. All signs shall comply with the sign requirements of the C-1 Zone.
13. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.
14. The car wash and vacuum cleaners shall not be available for use by customers between the hours of 7 p.m. and 7 a.m. In addition, no intercoms, speakers, or amplified sounds are permitted.
15. The developer 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 arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. 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.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(558):

The entire construction will be accomplished in one phase, with construction to begin within two years of approval by the City Council, and completion to be not later than three years from this same date.

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(558), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

By: Brad Wall
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-62**

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. 92052017): AMENDMENT TO SECTION 27-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(558) PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N. SANTA CRUZ AVENUE AND LA LOMA AVENUE (DAVID A. CERUTTI)

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, David A. Cerutti has proposed that the zoning designation for property located at the southwest corner of N. Santa Cruz Avenue and La Loma Avenue, be amended to rezone from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(558), in the City of Modesto (“the project”), to allow a car wash in conjunction with an existing convenience store and service station, 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 2002-63 (“Initial Study”) reviewed the proposed amendment to the Zoning Map and rezone to P-D(558) 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 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 6, 2003 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 January 28, 2003, 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 from P-D(558) 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. 92052017) as being within the scope of the Master EIR report.
2. That the project will have no new additional 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 that 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 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 28th day of January, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

Initial Study

EA/C&ED 2002-63

City of Modesto
Initial Study

Rezone from C-1 to P-D for Car Wash

EA/CDD 2002-63
November 8, 2002

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 92052017), adopted August 15, 1995, allows such limited review for projects in the Baseline Developed Area that are consistent with and within the scope of the Master EIR.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
Public Hearing - Application of Horizon Consulting Services for General Plan amendment and rezone from R-1 (Neighborhood Commercial Zone) to P-D (Planned Development Zone) to allow an automatic car wash in conjunction with an existing convenience store and gas station, property located at the southwest corner of N. Santa Cruz and La Loam Avenues.
- B. Lead agency name and address:
City of Modesto, P.O. Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:
Brad Wall
City of Modesto Community Development Department
1010 10th Street, Suite 3100
Modesto, CA 95353
(209) 577-5282
- D. Project Location:
Southwest corner of N. Santa Cruz and La Loma Avenues
- E. Project Sponsor:
David A. Cerutti
- F. General Plan Designation:
Commercial (C)
- G. Current Zoning:
Neighborhood Commercial (C-1)

H. Description of Proposed Projects:

This is an application to rezone a 0.9-acre parcel from C-1 (Neighborhood Commercial Zone) to P-D (Planned Development Zone), to allow an automatic car wash in conjunction with an existing convenience store and gas station, property located at the southwest corner of N. Santa Cruz and La Loma Avenues.

I. Surrounding land uses:

Residential land uses exist to the west, north and east of the subject property; a commercial land use exists to the south.

J. Other public agencies whose approval is required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The proposed planned development zone to allow an automatic car wash will contribute to increased traffic in the neighborhood. However, the proposed development is consistent with the Traffic and Circulation needs section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

B. Degradation of Air Quality

The proposed planned development zone to allow an automatic car wash is within the urban developed area of the City of Modesto. This use will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are therefore still valid.

C. Generation of Noise

The proposed planned development zone to allow an automatic car wash is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of residential uses. Because of building walls, fencing, structure setbacks, and hours of operation, the Day-Night Average Sound Level (Ldn) for this neighborhood area can be ensured. The applicant has prepared a noise study for the proposed project, which concludes that no significant noise impacts will be generated as a result of the proposed car wash use, nor will the adjacent neighborhood be impacted as a result of this use. It 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 therefore still valid.

D. Loss of Productive Agricultural Land

The proposed planned development zone to allow an automatic car wash is located on property noted as Urban and Built-Up Land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. Also, the requested planned development zone and resulting professional office development is subject to conditions of approval. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

- E. Increased Demand for Water Supplies**
The proposed planned development zone to allow an automatic car wash will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are therefore still valid.
- D. Increased Demand for Sanitary Sewer Services**
The proposed planned development zone to allow an automatic car wash will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.
- G. Loss of Sensitive Wildlife and Plant Habitat**
The proposed planned development zone to allow an automatic car wash is in a built-up urban area and will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are therefore still valid.
- H. Disturbance of Archaeological and Historic Sites**
Figure 8-1 of the MEIR indicates that the proposed project is not within the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the proposed project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR, and the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages IV-8-1 through IV-8-21) are still valid.
- I. Drainage, Flooding and Water Quality**
The proposed planned development zone to allow an automatic car wash will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will reduce the impacts of increased runoff within the baseline developed area to a less than significant level. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages IV-9-1 through IV-9-23) are therefore still valid.
- J. Increased Demand for Storm Drainage**
The proposed planned development zone to allow an automatic car wash is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure to provide for adequate storm drainage. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages IV-10-1 through IV-10-8) are therefore still valid.
- K. Increased Demand for Parks and Open Space**
The proposed planned development zone to allow an automatic car wash will not have an effect upon the parks or open space needs in the area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are therefore still valid.

L. Increased Demand for Schools

The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

M. Increased Demand for Police Services

The proposed planned development zone to allow an automatic car wash will have a less than significant impact upon the need for additional police services to this area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are therefore still valid.

N. Increased Demand for Fire Services

The proposed planned development zone to allow an automatic car wash will have a less than significant impact upon the need for additional fire services to this area. Fire Station Number 1 is located approximately 1.5 miles away, in downtown Modesto. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are therefore still valid.

O. Generation of Solid Waste

The proposed planned development zone to allow an automatic car wash will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10), are therefore still valid.

P. Generation of Hazardous Materials

The proposed project will not result in additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-15) are therefore still valid.

Q. Landslides and Seismic Activity

The proposed project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages IV-17-1 through IV-17-11) are therefore still valid.

R. Energy

The proposed planned development zone to allow an automatic car wash will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV. CONCLUSIONS / DETERMINATIONS OF FINDINGS

- A. The proposed planned development zone to allow an automatic car wash in conjunction with an existing convenience store and gas station is within the scope of the General Plan Master EIR (SCH No. 92052017), which analyzed the potential impacts of buildout of the Baseline Development Area.
- B. No additional significant environmental effects will occur as a result of the proposed planned development zone that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed planned development zone that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this proposed planned development zone that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Brad Wall,
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 63**

**A RESOLUTION URGING THE CALIFORNIA LEGISLATURE TO REJECT
THE GOVERNOR'S PROPOSED SHIFT OF LOCAL VLF REVENUES AND TO
HONOR THE 1998 COMMITMENT TO RESTORE THE VLF**

WHEREAS, prior to 1935, cities and counties collected property taxes on motor vehicles to fund essential local public health and safety services; and

WHEREAS, in 1935, the Legislature first enacted the Vehicle License Fee (VLF) Act, replacing the property tax on vehicles with a 1.75 percent fee charged against the value of the motor vehicle; and

WHEREAS, in 1948, the rate of the VLF was increased to 2 percent of the value of the vehicle; and

WHEREAS, in 1986, the voters voted overwhelmingly to constitutionally dedicate the proceeds of the VLF to fund city and county services; and

WHEREAS, in 1998, a period of strong economic growth, the Legislature approved the use of a portion of the rapidly growing state General Fund to reduce the VLF payments of vehicle owners. This amount, known as the "offset", grew in future years to a 67.5 percent offset against the amount owed. The amount paid to local governments in lieu of the reduced VLF payment is shown as the "VLF backfill"; and

WHEREAS, the 1998 legislation and subsequent enactments contain clear provisions that when insufficient funds are available to be transferred from the General Fund to fully fund the offsets and backfill amount that the VLF offset shall be reduced and VLF payments increased; and

WHEREAS, VLF and backfill revenues constitute 15 to 25 percent of typical city and county general purpose revenues. On average, more than 60 percent of city general fund spending and more than half of county general funds go to front line law enforcement, fire, emergency medical services, and health care programs; and

WHEREAS, revenues derived from the VLF and backfill are of critical importance in funding vital local public health and safety services; and

WHEREAS, any failure by the Legislature to maintain the VLF backfill or restore the VLF will cause widespread disruption in local government services essential to the well-being of California citizens and their cities and counties; and

WHEREAS, Governor Davis' proposal to divert \$4 billion in local VLF backfill payments over the next 17 months fails to honor the 1998 commitment and is a direct assault on local services that will be felt by every California resident; and

WHEREAS, shifting \$4.2 billion in locally controlled revenues for local services is neither equitable nor fair. No state program or department has been asked to shoulder such a disproportionate share of the budget pain. These cuts come on top of the nearly \$5 billion each year that is transferred from local services to fund state obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MODESTO, CALIFORNIA, that if the state General Fund can no longer afford the expense of part or all of the VLF "backfill" that the Legislature and Governor of California are hereby respectfully urged to implement the provisions of current law providing for the reduction of the VLF offset in bad economic times and to restore the VLF in an amount necessary to reduce the VLF backfill; and

BE IT FURTHER RESOLVED, that the City Council of the City of Modesto hereby expresses its profound appreciation to the legislators who support such VLF restoration legislation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: MIKE MILICH
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-64**

**A RESOLUTION REAPPOINTING JOAN BONACCINIE 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 January 13, 2003, and recommended its approval to reappoint JOAN BONACCINIE to the Golf Courses Advisory Committee.

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

SECTION 1. JOAN BONACCINIE is hereby reappointed to the Golf Courses Advisory Committee 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 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 28th day of January, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-65**

**A RESOLUTION REAPPOINTING RAY FELLER 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 January 13, 2003, and recommended its approval to reappoint RAY FELLER to the Board of Zoning Adjustment.

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

SECTION 1. RAY FELLER, as representative of the Planning Commission, is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2004.

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.

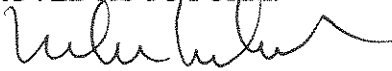
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST:



JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-66**

A RESOLUTION AMENDING THE WRITTEN POLICY REGARDING THE USE OF ENVIRONMENTAL ASSESSMENTS IN THE ACQUISITION OF REAL PROPERTY BY THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 2002-533.

WHEREAS, on November 6, 2002, by Resolution No. 2002-533, the City Council of the City of Modesto adopted a written policy regarding the use of environmental assessments in the acquisition of real property, and

WHEREAS, written policy is set forth in Council Resolution 2002-533, and

WHEREAS, City staff is recommending amending the written policy regarding the use of environmental assessments in the acquisition of real property to provide an exemption in the acquisition of real property for the purpose of right of way improvements such as, but not limited to, street improvements, utility line installations, and landscaping, and

WHEREAS, the Council Economic Development Committee met on January 13, 2003, and recommended an amendment of the policy, and

WHEREAS, the City Council desires to amend said written policy regarding the use of environmental assessments in the acquisition of real property to allow for said exemption.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby amends the written City policy regarding the use of environmental assessments in the acquisition of real property by the City of Modesto as follows:

1. A Phase I Assessment shall be conducted on all real estate acquisitions.
2. A Phase I Assessment shall be conducted by an accredited environmental firm, chosen through a City selection process.
3. All contracts shall be administered by City staff.

4. A Phase II Assessment shall be conducted based on results of the Phase I Assessment and consultation with the contracted environmental firm. A Phase II Assessment shall be required if any indication or concern is raised in the Phase I Assessment.
5. Written approval/authorization of the decision regarding the completion of a Phase II Assessment shall be required by the Project Manager, Planning Division staff, and the Department Director.
6. The Council Agenda Bluesheet and Council Staff Report format for reporting Environmental Review shall continue to be used as part of this policy.
7. Acquisition of residential property may be exempt from this policy upon approval of the Department Director.
8. Acquisition of real property for the purpose of right of way such as, but not limited to, street improvements, utility line installations, and landscaping, may be exempt from this policy upon the approval of the Department Director.

BE IT FURTHER RESOLVED that Resolution No. 2002-533 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 February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-67**

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS FOR A WASTEWATER MASTER PLAN UPDATE OF THE CITY OF MODESTO'S WASTEWATER SYSTEM AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE WASTEWATER MASTER PLAN UPDATE

WHEREAS, the City of Modesto's sewer flows have increased as a result of the population growth experienced over the last few years, and

WHEREAS, due to the City's expansion, the City's Wastewater Treatment Plant and collection system are experiencing capacity constraints, and

WHEREAS, the last Wastewater Master Plan was completed in 1995 and the report's findings are becoming out of date, and

WHEREAS, in order to continue to provide quality wastewater service for all current needs and for future economic growth, and before any major improvements can be made to the wastewater system, an updated wastewater master plan is necessary to determine current and future capacity constraints and identify improvements to correct these constraints, and

WHEREAS, City desires to proceed with a consultant selection process for the WWMP Update to include a Request for Qualifications and a Request for Proposals for said project, and

WHEREAS, City staff has proposed evaluation criteria to be included in the Request for Qualifications and the Request for Proposals, and

WHEREAS, Attachment A and Attachment B of the Director of Engineering and Transportation's February 4, 2003, agenda report to Council contains the recommended evaluation criteria to be used in selecting a firm to perform the Wastewater Master Plan Update, and

WHEREAS, this study is a capital improvement project within the wastewater program (CIP Account #6210-480-Q229) for a total amount of \$400,000 over fiscal years 2002/03 and 2003/04, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended proceeding with the consultant selection process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City staff to proceed with a Request for Qualifications and a Request for Proposals for a Wastewater Master Plan Update of the of the City of Modesto's Wastewater System.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the evaluation criteria contained in the aforementioned report is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-68**

A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN PARTICIPATION CALENDAR OF EVENTS FOR 2003-2004 HUD ANNUAL ACTION PLAN AND PUBLIC SERVICE GRANTS, AND FOR ESTIMATED AMOUNTS FOR THE PUBLIC SERVICE GRANTS.

WHEREAS, Federal Housing and Urban Development (HUD) regulations require the City of Modesto to have a Citizens Participation Plan which contains the City's procedures for community participation in the development of the Annual Action Plan and the use of Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Shelter Grant (ESG) funds, and

WHEREAS, by Resolution No. 97-696, on December 9, 1997, the City Council adopted and last amended its Citizen Participation Plan, a copy of which is available for review at the Recreation and Neighborhood Services Division office at Tenth Street Place, and

WHEREAS, the proposed calendar for citizen participation includes Public Service grant applications for CDBG as well as ESG proposals, and

WHEREAS, the proposed allocation of Public Service grants includes \$150,000 to be designated to the Modesto Police Department for the operation of the Crime Free Multi Housing Project, and

WHEREAS, the proposed estimated RFP amounts for Public Service grants are \$250,000 in CDBG funds and \$88,000 in ESG funds, and

WHEREAS, at its January 24, 2003, meeting, the Citizens Housing and Community Development Committee considered and supported staff recommendations for the timeline for the Citizens Participation Calendar of Events for 2003-2004 HUD

Annual Action Plan and Public Service grants, and for the estimated RFP amounts for Public Service grants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the timeline for Citizens Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service grants, and for the estimated RFP amounts for 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 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

City of Modesto
HUD Annual Action Plan
FY 2003-2004
Citizen Participation Calendar of Events

Activity	Date	Time
CH and CDC Meeting to approve the draft timeline for Citizen Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service Grants; Tenth Street Place, Room 4001	Jan. 24, 2003	12:00 p.m.
City Council Meeting to approve the draft timeline for Citizen Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service Grants; Tenth Street Place, Council Chambers	Feb. 4, 2003	5:30 p.m.
Application Period for Public Service Grants opens	Feb. 5, 2003	8:00 a.m.
Staff Technical Assistance Workshop for ESG Public Service Grants, Tenth Street Place, Room 2005	Feb. 11, 2003	9:00 a.m.
Staff Technical Assistance Workshop for CDBG Public Service Grants, Tenth Street Place, Room 2005	Feb. 12, 2003	9:00 a.m.
Application Deadline for Funding Requests of Public Service Grants	Feb. 28, 2003	5:00 p.m.
Analysis of Public Service Funding Requests by Staff and Review Committee	Feb. 28-Mar. 12, 2003	
Community meetings to obtain input on Annual Action Plan projects/activities: Tenth Street Place, Airport Neighbor's United, Chrysler School, King-Kennedy Center	March 19, 20, 25, 26, 2003	6:00 p.m.
CH and CDC Meeting and Public Hearing to Consider Requests for funding of Public Service Applications; Tenth Street Place, Room 2001	March 21, 2003	12:00 p.m.
City Council Meeting to Consider and Approve Funding Recommendations for Public Service Applications; Tenth Street Place, Council Chambers	April 8, 2003	5:30 p.m.
Public Notice announcing availability of final draft of 2003-2004 Annual Action Plan for review and comments	April 15, 2003	
CH and CDC Meeting to Consider final draft of 2003-2004 Annual Action Plan; Tenth Street Place, Room 4001	April 25, 2003	12:00 p.m.
City Council public hearing to consider and approve recommendations for the 2003-2004 Annual Action Plan for; Tenth Street Place, Council Chambers	May 13, 2003	5:30 p.m.
Submission of 2003-2004 Annual Action Plan to HUD	May 30, 2003	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-69**

A RESOLUTION APPROVING AN INITIAL APPLICATION TO THE HOUSING AND URBAN DEVELOPMENT DEPARTMENT (HUD) FOR A \$4.5 MILLION SECTION 108 LOAN GUARANTEE TO FINANCE THE CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK AND THE RENOVATION AND EXPANSION OF MADDUX YOUTH CENTER, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE INITIAL APPLICATION.

WHEREAS, the Section 108 Loan Guarantee is a loan guarantee from Federal Housing and Urban Development Department (HUD) that allows an entitlement recipient to borrow up to five times the amount of their annual entitlement to fund Community Development Block Grant (CDBG) activities, and

WHEREAS, the City would borrow against a \$4.5 million Section 108 Loan Guarantee, of which \$3.1 million is for the construction of a joint service facility in Marshall Park, which would house a fire station, a police sub-station and a recreation office/ facility, and \$1.4 million is for the renovation and expansion of the Maddux Youth Center, and

WHEREAS, the total cost of the two projects would be \$5.6 million, and

WHEREAS, the loan guarantee can be used for any CDBG eligible activity, and these two proposed projects are both located in the low-income census tracts and will benefit low- and moderate-income persons, and

WHEREAS, the City would pay quarterly interest due on the amount borrowed, with the interest rate on the interim financing being adjustable, and based on the London Interbank Offered Rate (LIBOR) plus a mark up of 20 basis points, and

WHEREAS, the maximum term is 20 years, and loans cannot be prepaid during the first ten years of the amortization period; principal is paid once a year and the interest is due on August 1 and February 1, and

WHEREAS, the City of Modesto is proposing a 20-year amortization period on the permanent financing, and

WHEREAS, HUD requires that the City use its future CDBG entitlement as collateral, as well as other collateral which in the City's situation would be Marshall Park, Cesar Chavez Park (the location of the Maddux Youth Center), the buildings and all improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an initial application to be submitted to the Federal Housing and Urban Development Department (HUD) for a \$4.5 million Section 108 Loan Guarantee to finance the construction of the Neighborhood Center at Marshall Park and the renovation and expansion of Maddux Youth Center, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**CITY OF MODESETO
INITIAL APPLICATION FOR SECTION 108
LOAN GUARANTEE**

1. Project Description

The City of Modesto is requesting \$4.5 million in Section 108 Loan Guarantee funds to finance 1) \$3.1 million for the construction of the Neighborhood Center at Marshall Park, a joint service facility for police, fire and recreational services, and 2) \$1.4 million for the renovation expansion of the Maddux Youth Center. These projects will provide safety services, as well as family and youth services to a low-income area located in the western sector of Modesto.

2. Sources of Funding and Uses

Neighborhood Center at Marshall Park

Costs

Design	\$	206,000
Design Administration		199,200
Construction		2,490,000
Construction Admin		249,000
Contingency		178,100
Furn, Fixtures, & Equip		-
Financing Costs		22,200
	\$	<u>3,344,500</u>

Financing Sources

CDBG Funds	\$	263,000
Section 108 Loan		<u>3,081,500</u>
	\$	<u>3,344,500</u>

Maddux Youth Center

Costs

Design	\$	142,000
Design Administration		78,000
Construction		1,600,000
Construction Admin		120,000
Contingency		250,000
Furn, Fixtures, & Equip		100,000
Financing Costs		7,800
	\$	<u>2,297,800</u>

Financing Sources

General Fund 00-01	\$	150,000
CDBG Funds		205,300
Proposition 12 Funds		524,000
Section 108 Loan		<u>1,418,500</u>
	\$	<u>2,297,800</u>

**Total
Construction Costs: \$ 5,642,300**

**Total Section 108
Loan Guarantee: \$ 4,500,000**

3. Project Structure and Participants

Both existing park sites are owned by the City and any improvements and construction in the park will be owned by the City. The Marshall Park land and improvements is currently valued by the City at \$2.9 million and the Cesar Chavez parkland and improvements, including the current Maddux Youth Center, has a value of \$6.2 million. The estimated value after completion of the two projects is over \$14 million. If the Section 108 Loan Guarantee is approved, the funds will be used for the construction and as permanent financing.

a. Neighborhood Center at Marshall Park

The joint service facility will provide citizens the opportunity to interact with City employees in their own neighborhood. They will be able to meet with police and fire staff, conduct city business such as paying water or sewer bill, enroll a child in a recreation program, or just ask questions concerning City programs and policies. This facility will be built in the open space in one of the City's existing parks, Marshall Park, located at Sutter and Chicago Avenues.

The existing fire station located in the area was built in 1923 and is outdated and there is no room for expansion. The community police sub-station is in an existing strip mall and could easily be combined with the fire staff. The new facility would be an 8,500 square foot fire station with three truck bays and a 4,075 square foot police and recreation area. There would be an office that would staff personnel from all three departments, as well as a fitness room, community meeting room, restroom, and a small kitchenette.

Since March, WLC Architects has been working on the schematic design, preparation of design development documents, plans, specifications and the cost estimate for the new joint use facility. WLC has been meeting with staff and community groups to insure that the design is the best fit for the community, the needs of City staff, and for the existing appearance of the park. Upon completion of the design documents, a Request for Proposal process will be used for the selection of a contractor to build the new joint facility. This should be accomplished by August 2003. Construction could begin in October 2003 and completion twelve months later.

b. Maddux Youth Center

The Maddux Youth Center was built in 1952 and is located in the existing Cesar Chavez Park. The center houses a gym, a weight room, and offices for staff. This building is in sore need of renovation and expansion to meet the needs of today's youth.

A 2,500 square foot addition to the south side of the building would be utilized for a computer lab, additional restrooms, and a multi-purpose room. A 3,500 square foot addition to the northeast side of the building would accommodate the activities of the Police Activities League (PAL) youth boxing program. Renovation to the existing

9,451 square foot structure would include a new roof with skylights, a new air handling system, replacement of interior and exterior doors, enclosure of existing windows, and abatement of the asbestos in the flooring, and installation of new flooring in the facility, excluding the gym.

RRM Design Group has been working on the design development and construction documents since August 2001. RRM has hosted two public meetings on the design to facilitate community input. Following the final design, the City will seek Request for Proposals for the construction of the project. It is estimated that the contractor will be selected by August 2003, with construction to begin in February 2004 and completion twelve months later.

4. Repayment Schedule

The estimated payment plan is as follows: (calculated at 2% for the interim financing in years 2003 and 2004, calculated at 5% for the amortized 20-year loan).

Total Payment is approximately **\$361,000** per year (adjusted for requirement that payments be rounded to nearest thousand for principal amount).

Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Annual Payment
2004	4,000,000	80,000	0	4,000,000	80,000
2005	4,500,000	225,000	136,000	4,364,000	361,000
2006	4,364,000	218,200	143,000	4,221,000	361,200
2007	4,221,000	211,050	150,000	4,071,000	361,050
2008	4,071,000	203,550	158,000	3,913,000	361,550
2009	3,913,000	195,650	165,000	3,748,000	360,650
2010	3,748,000	187,400	174,000	3,574,000	361,400
2011	3,574,000	178,700	182,000	3,392,000	360,700
2012	3,392,000	169,600	192,000	3,200,000	361,600
2013	3,200,000	160,000	201,000	2,999,000	361,000
2014	2,999,000	149,950	211,000	2,788,000	360,950
2015	2,788,000	139,400	222,000	2,566,000	361,400
2016	2,566,000	128,300	233,000	2,333,000	361,300
2017	2,333,000	116,650	244,000	2,089,000	360,650
2018	2,089,000	104,450	257,000	1,832,000	361,450
2019	1,832,000	91,600	269,000	1,563,000	360,600
2020	1,563,000	78,150	283,000	1,280,000	361,150
2021	1,280,000	64,000	297,000	983,000	361,000
2022	983,000	49,150	312,000	671,000	361,150
2023	671,000	33,550	328,000	343,000	361,550
2024	343,000	17,150	343,000	0	360,150
	Total Paid	\$2,701,500	\$4,500.00		

5. Collateral

The City of Modesto proposes to pay the Section 108 Loan Guarantee with funds from the annual CDBG entitlement. The City will also pledge the parks and the two buildings, the proposed Neighborhood Center at Marshall Park and the improved Maddux Youth Center, as collateral for the loan. A Deed of Trust in favor of HUD will be recorded against the land and buildings.

6. Time Tables and Stages

The construction for both projects should begin by late 2003 or early 2004 and be completed by the end of 2004. During the construction phase, initial advances will be taken from the Section 108 Loan Guarantee to pay the construction costs. Interest due on the initial advances will be paid through the adjustable rate interim financing. It is hoped that the project will be almost fully funded at the time of the annual public offering in 2004, if the public offering is in the later half of the year. The City will participate in the public offering and convert the existing Section 108 Loan Guarantee into fixed rate financing for a 20-year term.

7. Eligible Activity

a. Neighborhood Center at Marshall Park

The project is eligible under 24 CFR 570.201(c), Construction of Public Facilities. The facility will be a city-owned, neighborhood-based, multi-department service center, consisting of a fire station, police station, and recreation office, with the specific intent to serve a limited service area on the west side of Modesto.

b. Maddux Youth Center

The project is eligible under 24 CFR 570.201(c), Construction and Rehabilitation of Public Facilities. The existing Maddux Youth Center is a city-owned, neighborhood-based, youth recreation center. This project will substantially rehabilitate and renovate the youth center.

8. National Objective

a. Neighborhood Center at Marshall Park

The project will meet a national objective under 24 CFR 570.208(a)(1)(I), Activities benefiting low- and moderate-income persons, area benefit activities. At least 51% of the residents who reside in the service areas of the neighborhood fire/police/recreation office are low/moderate income persons.

b. Maddux Youth Center

The project will meet a national objective under 24 CFR 570.208(a)(1)(I), Activities benefiting low- and moderate-income persons, area benefit activities. At least 51% of the residents who reside in the service area of the recreation center are low-moderate income.

9. Public Benefit Standards

a. Neighborhood Center at Marshall Park

- The total amount of CDBG funds (e.g. Section 108 funds and any other CDBG-related funds) to be used in the project: \$3,344,500
- The total number of low- and moderate-income persons living within the project's service area:
 - Fire Department Service Area: 11,010 low/moderate-income persons out of a total population of 17,904 persons
 - Police Department Service Area: 12,653 low/moderate-income persons out of a total population of 23,079 persons
 - Recreation Department Service Area: 12,653 low/moderate-income persons out of a total population of 23,079 persons

b. Maddux Youth Center

- The total amount of CDBG funds (e.g. Section 108 Loan Guarantee funds and other CDBG-related funds) to be used in the project: \$1,623,800.
- The total number of low- and moderate-income persons living within the proposed project service area: 13,922 low/moderate-income persons out of a total population of 25,025 persons.

10. Whom May We Contact

Julie Hannon
Deputy Director, Parks, Recreation and Neighborhoods
City of Modesto
PO Box 642, Modesto, 95353
1010 Tenth Street, Suite 4300, 95354
jhannon@modestogov.com
(209) 577-5417

or Cheryl Davis,
Housing Financial Specialist, Parks, Recreation and Neighborhoods
cheryld@modestogov.com
(209) 577-5311

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-70**

A RESOLUTION AUTHORIZING THE MODESTO CITY FIRE DEPARTMENT TO PARTICIPATE IN AN ADVANCED LIFE SUPPORT (ALS) ENGINE PILOT PROGRAM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY CONTRACTS AND AGREEMENTS.

WHEREAS, on June 25, 2002, the City Council approved funding for the development of a Modesto Fire Department – Advanced Life Support (ALS) Pilot Program, and

WHEREAS, the development of the program and labor agreements are completed, and

WHEREAS, the training and licensing of the Fire Department ALS pilot personnel will be completed in February, 2003, and

WHEREAS, implementation of the program requires contractual agreements between the City of Modesto and Mountain-Valley Emergency Medical Services Agency, the governing Emergency Medical Services Authority for the County of Stanislaus, and

WHEREAS, on October 1, 2000, the Safety and Communities Committee approved “in-concept” the Pilot Advanced Life Support first responder program within the Modesto Fire Department, and

WHEREAS, on October 2, 2002, the Safety and Communities Committee received an update on the progress of the ALS pilot program to date,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that the Fire Department is hereby authorized to implement an Advanced Life Support Engine Pilot Program on or about the 1st day of March, 2003.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the City's acceptance of all contracts, agreements and documents necessary regarding the aforementioned program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Council member Fisher, who moved its adoption, which motion being duly seconded by Council member Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES: Council members: None
ABSENT: Council members: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-71**

A RESOLUTION GRANTING AN APPEAL OF THE CURRENT APPLICATION OF CAPITAL FACILITIES FEE (CFF) EXEMPTIONS FOR BUILDINGS DEMOLISHED AT 339 PARADISE ROAD, AND PROVIDING A CFF CREDIT EXEMPTION FOR BUILDINGS DEMOLISHED AT 339 PARADISE ROAD, 1333 N. CARPENTER ROAD, 801 OAKDALE ROAD, AND 2020 W. BRIGGSMORE AVENUE.

WHEREAS, an appeal was requested to grant the application of a CFF credit for buildings demolished at 339 Paradise Road, and

WHEREAS, City staff is aware of additional properties located at 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue, where buildings were previously demolished, and the property owners have relied on an expectation that they will receive a CFF credit for the demolished buildings, and

WHEREAS, the City's past policies granted a CFF credit for reconstructed buildings on sites that demolished the existing buildings, and

WHEREAS, the developers of the four projects at the locations stated above have relied on the past policy of granting-receiving CFF credits for reconstructed buildings on sites that demolished the existing buildings, in determining the feasibility of their projects, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended that the appeal be granted, and that CFF credits be provided for buildings demolished at 339 Paradise Road, 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of the current application for a CFF credit for buildings demolished at 339 Paradise Road, 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue is hereby granted.

BE IT FURTHER RESOLVED that staff be directed to allow an exception to the current application of CFF exemptions for the projects listed above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, 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: Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-71A**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PRINTING OF THE
MONTHLY UTILITY BILL INSERT, FOR A THREE (3) YEAR AGREEMENT
WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.**

WHEREAS, the City of Modesto has provided the citizen's of Modesto a utility bill insert with the monthly billing statement since 1987, and

WHEREAS, the utility bill insert provides the City an economical means of reaching all households and businesses with important City information, and

WHEREAS, the utility bill insert has proven to be a most cost effective means of keeping the public informed about the City, resulting in improved customer understanding of City issues, and

WHEREAS, the anticipated annual cost for the ongoing monthly printing of the utility bill insert is approximately \$38,520.00, and

WHEREAS, Modesto Municipal Code, Section 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, by soliciting competitive bids for the monthly printing of the utility bill insert the Finance Department Purchasing Division will comply with Modesto City Code Section MMC 8-3.203 regarding formal bid procedures.

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 bids for the monthly printing of the utility bill insert, for a three (3) year agreement with two (2) one-year extension options, 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 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmemeber Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-72**

A RESOLUTION APPROVING AN AMENDED AIRCRAFT T-HANGAR AND TIE-DOWN LEASE AGREEMENT AT THE MODESTO CITY-COUNTY AIRPORT, REVISING THE AMOUNT A TENANT WOULD PAY FOR AN AIRCRAFT HANGAR AT THE TIME THE LEASE BECOMES EFFECTIVE, AND CHANGING THE NUMBER OF DAYS NOTICE EITHER THE CITY OR LESSEE WOULD BE REQUIRED TO GIVE BEFORE LEASE TERMINATION

WHEREAS, the City of Modesto leases small aircraft storage hangars at Modesto City-County Airport, and

WHEREAS, the City occasionally has a vacancy that requires a unit be rented to a different individual, and

WHEREAS, previous tenants often do not provide adequate notice of termination of their leases, causing a delay in renting the hangar to a new tenant, resulting in lost revenue for the City, and

WHEREAS, the Airport Advisory Committee requested public input at their meeting on November 20, 2002, and received no comments, and voted to support changing the Airport's Aircraft T-Hangar and Tie-down Lease Agreement to add a requirement of payment of first and last months' rent at the time a lease is entered, and a 30-day notice of termination in order to eliminate the loss of revenue, and

WHEREAS, the Council's Economic Development Committee considered the airport's amended lease agreement at their January 13, 2003, meeting, and recommended approval of the amended lease agreement,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the City's Amended Aircraft T-Hangar and Tie-down Lease Agreement with the recommended changes, as shown in **Exhibit A** attached.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February 2003, by Councilmember Fisher who moved for its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote.

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by: Michael D. Milich
MICHAEL D. MILICH, City Attorney

LEASE AGREEMENT
(T-Hangar or Tie-Down Spaces)

This Lease Agreement, made and entered into in the City of Modesto, County of Stanislaus, State of California, as of this ____ day of the Month of _____, 20____, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and _____ hereinafter called LESSEE.

WITNESSETH:

That for and in consideration of the covenants, conditions, agreements, and stipulations hereinafter expressed, CITY does hereby demise and lease unto LESSEE, and LESSEE hereby hires from CITY, those certain premises situated at the Modesto City-County Airport in the City of Modesto, County of Stanislaus, State of California, known as «PropertyName», on a month-to-month tenancy commencing on the ____ day of the Month of _____ 20____, at the rate established from time to time by Resolution of the City Council payable monthly in advance commencing on the ____ day of Month of _____, 20____, to the City of Modesto, and mail in c/o Modesto City-County Airport, 617 Airport Way, Modesto, California 95354. **In addition, for the right to lease a City owned hangar the LESSEE agrees to pay an additional month's rent, which the CITY agrees to use for rent charges assessed at the time notice of termination when given by either party to the lease.**

In addition thereto the parties hereby mutually agree as follows:

1. **USE:** That said premises shall not be used by the LESSEE during the term of this lease for other than storage of aircraft purposes except with the written consent of the CITY.
2. **REGULATIONS:** LESSEE acknowledges receipt of a copy of the Modesto Municipal Code Airport Regulations and agrees to abide by the Code as written. A copy of the regulations herein referred to is attached hereto, marked Exhibit "A" and made a part hereof as though set forth in full herein.
3. **ASSIGNMENT:** LESSEE shall not assign this lease nor any right hereunder, nor sublet the premises, nor any part thereof, nor suffer any other person to occupy or use the said premises or any portion thereof. In the event of a breach of this condition, CITY shall have the power to immediately declare this lease agreement terminated and will thereupon be entitled to take immediate possession of the premises.
4. **INSURANCE:** CITY will keep the premises insured against fire and other insurable risks covered within its blanket policy, provided, however, that LESSEE waives the right to claim damages from CITY for any damage resulting to any personal property in or upon the premises in the event damage results from fire or any other cause. LESSEE agrees to provide insurance

in the amounts set forth in Sections 7-3.108 and 7-3.108.1 of the Modesto Municipal Code, and to file a certificate evidencing such coverage in the Office of the City Clerk of the City of Modesto. Should the LESSEE fail to provide the City with an insurance certificate as required by sections 7-3.108 and 7-3.108.1 of the Modesto Municipal Code, the Airport Manager will have the right to padlock the aircraft until a current insurance certificate is provided to the City as evidence of insurance coverage naming the City of Modesto as additional insured.

5. INDEMNIFICATION: LESSEE agrees to indemnify and hold CITY harmless from and against all liabilities or injuries to persons or damage to property caused by LESSEE'S use of, occupancy of, or operation of the demised premises, unless caused by negligence on the part of the City.

6. RIGHT OF ENTRY UPON PREMISES: CITY and its agents and employees shall have the right to enter upon said premises at all reasonable times to inspect the same to determine if LESSEE is performing the covenants of this lease on his part to be performed and to post such reasonable notices as CITY may desire to protect its rights.

7. DEFAULT: If LESSEE makes default in the performance of any of the covenants here of, CITY at any time thereafter, without notice or demand, may lawfully declare said term ended and re-enter the said premises with or without process of law. The waiver of any breach of any covenant by CITY herein shall not constitute a waiver of any other breach regardless of CITY'S knowledge thereof.

8. TERMINATION: It is agreed between the parties hereto that this lease may be terminated by either party hereto upon giving ~~ten (10)~~ **thirty (30)** days written notice to the other party. The Airport Manager is authorized to terminate this lease on behalf of the CITY.

9. FAILURE TO VACATE: LESSEE agrees to vacate said premises within **thirty (30)** days after receipt of notice to do so from CITY, and failing to vacate as herein provided, agrees that CITY, or its authorized agents, may enter upon said property and remove all personal property therefrom and in this event, **LESSEE agrees to pay reasonable charges if CITY is required to remove personal property, and** waives any and all claims for damages against CITY, its agents or employees. Nothing herein shall be deemed a waiver of any rights of CITY to demand and obtain possession of said premises in accordance with law in the event of a violation of LESSEE'S part of any of the terms or conditions hereof.

10. COMMERCIAL OPERATIONS: LESSEE acknowledges that a permit must be granted by the Modesto City Council as a prerequisite to LESSEE'S conducting commercial operations out of the leased premises, and that without such permit, aircraft stored upon the leased premises shall not be leased or hired by LESSEE by any person or entities for compensation.

11. TIME OF ESSENCE, BINDING UPON HEIRS, ETC.: Time is of the essence of each and all the terms and provisions of this lease, and the terms and provisions of this lease shall extend to and be binding upon and insure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

12. POSSESSORY INTEREST: LESSEE recognizes and understands that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of property taxes levied on such interest.

IN WITNESS THEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this lease agreement in duplicate by its Airport Manager under authority of Resolution No. 70-205, adopted by the Council of the City of Modesto on the ____day of the Month of _____, 20____ and LESSEE has caused this lease agreement to be executed.

CITY OF MODESTO, a municipal corporation

«LesseeName»
«LesseeAddress»
«LesseeCityState»

By: _____
Jack R. Crist, City Manager

«PlaneNumber»

By: _____
Lessee

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-73**

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS IN THE OLYMPIC PARK NO. 4 SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WARREN SMITH LAWSON FAMILY, INC., A CALIFORNIA CORPORATION

WHEREAS, WARREN SMITH LAWSON FAMILY, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 10.08 acres, known as the OLYMPIC PARK NO. 4 (“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 2nd day of October, 2000, 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 Engineering and Transportation Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Engineering and Transportation Director,

WHEREAS, the subdivider has posted a warranty security in an amount equal to 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, and

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 Olympic Park No. 4 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 file 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 in the amount of \$41,000.00 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 11th day of February, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-74**

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS IN THE OLYMPIC PARK NO. 5 SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WARREN SMITH LAWSON FAMILY, INC., A CALIFORNIA CORPORATION

WHEREAS, WARREN SMITH LAWSON FAMILY, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 3.08 acres, known as the OLYMPIC PARK NO. 5 (“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 25th day of February, 2002, 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 Engineering and Transportation Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Engineering and Transportation Director,

WHEREAS, the subdivider has posted a warranty security in an amount equal to 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, and

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 Olympic Park No. 5 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 file 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 11th day of February, 2003, by Councilmember Fisher, 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:	Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	Frohman
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-75**

**A RESOLUTION AMENDING THE POLICIES AND PROCEDURES FOR
ACCESSMODESTO**

WHEREAS, on the 26th day of November, 2002, by Resolution No. 2002-590, the City Council established Policies and Procedures for the operation of AccessModesto, and

WHEREAS the City Council now desires to amend the Policies and Procedures, and

WHEREAS, the City Council has determined broadcasting hours of programming containing indecent material shall be restricted to the hours between 1:00 a.m.-4:00 a.m., and

WHEREAS, the City Council has determined that amended Indemnification and new public content surveys are required, and

WHEREAS, the City Council has determined the number of playbacks on the Public Access channel are limited to two (2) per week with a maximum cap of three (3), depending on availability, and

WHEREAS, the City Council has determined the City retains the right to preempt any programming for all City-related news conferences, and

WHEREAS, Exhibit A, attached hereto, contains the violation and appeal process and amended Policies and Procedures as determined by City Council, and

WHEREAS, the City Council has determined to appoint members to the Local Cable Programming Committee and consider said appointees as Board of Director members upon establishment of 501 (c)(3), and

WHEREAS, the City Council has determined the Local Cable Programming Committee shall hear appeals and apply penalties, as approved and determined by Council, to said violators of the Policy and Procedures, and

WHEREAS, City Council has determined Channel 27 is hereby revised to broadcast Public Access and Education programming with a priority on Educational programming, and

WHEREAS, the amendments to the Policies and Procedures have been reviewed and recommended for approval by the Safety and Communities Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendments to the AccessModesto Policy and Procedures, a copy of which is attached hereto as **Exhibit "A"**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT

A

Operating Policies & Procedures



I. INTRODUCTION

The City of Modesto regulates the local cable television franchise agreement, which allows the cable company to use public rights of way for their cables and wiring. Within this franchise agreement, provisions are made for Public-Education-Government (PEG) access channels.

These Operating Policies and Procedures set out the rules that govern the operation of the City of Modesto Master Control Room and AccessModesto Community TV (AMCTV) channels.

These Operating Policies and Procedures will evolve with the growth and development of AccessModesto Community TV, and the experiences of those who use the channels and Master Control Room facility. AccessModesto Community TV reserves the right to modify this document at any time.

A. PEG

In the City of Modesto, Channels 2, 8 and 27 on the AT&T Broadband cable system have been set aside for use by members of the public, community organizations, educational institutions, and governmental agencies as the city's community access channels. AccessModesto Community TV aims to be the nexus that provides the public with the facilities and equipment needed to produce television programs to be shown over these local community channels.

B. Public Access

Public Access means TV for you, by you, and about you. This is television made by you free of censorship (to the extent allowed by law) and free of commercials. Public access allows for varying degrees of an individual's participation. One can participate in Public Access easily by bringing in a previously taped show or by putting a message on the Video Bulletin Board. Future plans include a more hands on approach that will allow citizens to

participate in production workshops, check out equipment, and produce their own television shows.

C. Education & Government Access

The channels are also used to deliver programming produced by educational institutions, as well as agencies of local and state government. This programming is referred to as education and government access and includes coverage of City Council and County Board of Supervisor meetings, information on City and County services, credit and noncredit courses delivered to the home, and special events. Section VI describes how AccessModesto Community TV will schedule this mix of programs in a way that ensures a good balance of programs.

D. Contact Information

The City of Modesto Communications & Marketing Division manages the city's AccessModesto Community TV program with assistance from the city's Local Cable Citizen Advisory Committee. Future plans are to implement an independent, nonprofit corporation to oversee the policies and procedures of AccessModesto Community TV, to enhance the diversity of thought, culture, and heritage within the City of Modesto and Stanislaus County, and to be a communication resource among all the communities in Stanislaus County.

AccessModesto Community TV

Communications & Marketing Division: (209) 577-5463

Master Control Room (209) 525-5104

Scheduling/Programming

Master Control Room Fax (209) 525-5113

Video Bulletin Board Announcements

<http://www.modesto.tv>

email: info@modesto.tv

E. Drop-off

Video tapes prepared for airing on the AccessModesto Community TV channels may be:

- Dropped off at the City Manager's Office, 1010 Tenth Street, Suite 6100, Modesto, California between the hours of Monday through Friday, 8 am – 5 pm.
- Mailed to AccessModesto Community TV, P.O. Box 642, Modesto, CA 95353, or
- Placed in the drop-box located at the Stanislaus County Office of Education South Door.

A presenter must submit a signed Content Program Survey form with each program. Since a tape must be entered into the AccessModesto Community TV tape database, labeled, and scheduled, an airdate cannot be given at the time of submission. Airdates will be available approximately three business days after a tape has been submitted. Producers submitting episodes of an approved series must deliver the tape and Program Content Survey to AccessModesto Community TV at least seven days prior to their time slot to allow for scheduling, unless other arrangements are agreed upon with the Programming Manager.

Our Purpose

Assisting residents and organizations to communicate ideas and exchange information through the medium of community access television.

To accomplish this, we will work toward the following goals:

- Advocate the use and benefits of community access television
- Encourage the cablecasting of non-commercial programs directly related to the community of Modesto and/or Stanislaus County
- Encourage the creation of programs aimed at preserving, developing, and enhancing the diversity of thought, culture, and heritage within Modesto and/or Stanislaus County
- Facilitate lifelong learning and community participation in the democratic process
- Serve as a local information exchange
- Develop cooperative partnerships with Public, Education, and Government individuals and groups to help further the goals of community access
- Monitor and incorporate, to the extent funding is available, the use of emerging technologies that will benefit community access users
- Maintain those cable channels dedicated to public use in a manner that is free of censorship and control of program content, except as necessary to comply with State or Federal law
- Attempt to provide equitable access to community channels by developing and utilizing rules and policies

AccessModesto Community TV programming is broadcast on Channels 2, 8, and 27 on the AT&T Broadband cable system and is available to all AT&T cable residents in the City of Modesto as part of their basic cable television service.

I. MASTER CONTROL ROOM FACILITY

The City of Modesto Master Control Room is located in the basement of the Stanislaus County Office of Education, 1100 H Street, Modesto, California 95354.

Currently, the AccessModesto Community TV does not offer production/studio facilities for public access. It is the intent of the City of Modesto to determine the feasibility of providing a Public Access studio. Until then, each producer is responsible for identifying a location for the production of his or her program.

Additionally, producers are fully responsible for signing and obtaining all necessary forms and releases involved in their production. This includes talent releases and music rights. The City of Modesto and AccessModesto Community TV have no legal liability for clearances that have not been obtained.

Regular Hours of Operation

- A. Monday through Friday 10 am – 7 pm for Master Control Room Operation
- B. Monday through Saturday as needed for Education/Government programming
- C. Saturday and Sunday – Open only for Master Control Room Operation

Technical staff is available on-call 24 hours per day and 365 days per year to oversee the use of the facility and provide technical management as needed. The facility staff will answer any technical questions regarding the equipment. However, it is not the responsibility of staff to serve as crew on any community productions.

II. PRODUCERS' RESPONSIBILITIES

1. Application Forms

Forms must be completed for each show that is produced for AccessModesto Community TV. The forms provide details about the production and serves as a working production tool for both the producer and Master Control Room staff.

- a. Application for Access Channel Cablecast
- b. Statement of Compliance
- c. Indemnification
- d. Duplication Process Policy
- e. Program/Technical Requirements
- f. Program Content Survey

2. Tape Duplication

AccessModesto Community TV recommends that access producers keep possession of their SVHS edit master and submit a good quality SVHS dub for cablecasting which AccessModesto Community TV will keep. The AccessModesto Community TV is not responsible for damage to the air tape, under the Statement of Compliance form, which is completed for cablecasting.

3. Dubbing Charges

If producers wish to retain their edit master, they may request that one SVHS tape be dubbed in the Master Control Room to submit for cablecasting at no charge. Producers may also request one VHS tape be dubbed of their public access program in the Master Control Room at no charge. Producers must provide tape stock. Staff will duplicate tapes based on the availability of the equipment. Dubs for cablecasting have

priority over VHS dubs. Additional dubs will be copied by staff for a fee of \$10 per tape including the cost of the tape stock.

III. SERVICES PROVIDED

A. Video Bulletin Board

A separate bulletin board appears on each of the Public Access-Education-Government channels in between taped or live programming.

Eligible users may submit messages and announcements to the Video Bulletin Board. Eligible users include bona fide nonprofit agencies, educational, and governmental organizations.

Public Access producers may submit a brief description of their own program with air times for display on the Public Access Bulletin Board.

Messages may be typed or printed on an AccessModesto Community TV Bulletin Board Form. Messages may be no longer than 100 words, however press release of approximately the same length will be accepted. The information should be submitted 10 days in advance of requested airdate. Cost: Free. Pick up a Bulletin Board Form in the City of Modesto City Manager's Office, online at www.modesto.tv or request one be faxed or mailed to you by calling 525-5104.

IV. PROGRAMMING GUIDELINES

A. Program Content Policy

AccessModesto Community TV has designed its policies and facility to encourage the broadest possible usage of the cable television community channels, to celebrate the diversity of the community, and to strengthen the sense of community in the City of Modesto and Stanislaus County.

AccessModesto Community TV is committed to being the vehicle for non-commercial programming made by individuals and groups in the City of Modesto. As such, it is the producer or presenter of the program who accepts responsibility for the content, not AccessModesto Community TV. AccessModesto Community TV will exercise no control over program content, except that legally, community access programming must not contain:

1. Obscene or indecent matter as defined by the First Amendment to the U.S. Constitution and any applicable case law in the 1992 FCC guidelines.
2. Materials that contain other speech not protected by the Constitution: i.e., speech, which directly results in violence, 'fighting words,' and incitement to riot.
3. The direct or indirect presentation of lottery or other information as prohibited by State Law.
4. Political endorsements outside of politically sanctioned debates and/or political advertising material.
5. Advertising material that promotes the sale of commercial products or services or motivates a viewer to contact guests or businesses for additional information. For example: A program with a guest from a business or organization cannot contain a slate that states "For more information call or contact:..." Also, no phone number of a commercial business can be provided to the viewer.

6. The telephone number of certified non-profit organizations may be included as a service to the public. A non-profit may be required to provide documentation of its non-profit status.

7. The direct solicitation of funds or donations for any and all purposes is prohibited. Bona fide nonprofit agencies may appeal for volunteers or publicize fundraising events.

8. Material which constitutes libel, slander, invasion of privacy, or publicity rights, unfair competition, violation of trademark or copyright, or which might violate any local, state, or federal law.

B. Copyright and other Clearances

Users presenting a tape-recorded or live program for cablecast must state in writing that they have made all appropriate arrangements to obtain all rights to materials to be cablecast.

Users shall obtain in writing, the consent of all persons and parental permission for all minors appearing in programs submitted for cablecasting. Sample Talent Release Forms are available online at www.modesto.tv.

C. Minors Submitting Programs

A parent or legal guardian must sign the Cablecast Agreement for each program submitted by a minor. Staff may request copies of all clearances and releases before airing a program.

D. Acknowledgements and Disclaimers

The presenter of a program must be clearly identified on a slate appearing at the beginning and end of each program. The slate must include the presenter's name and address. A phone number is optional. The slate provides the viewer with contact information in case of questions or concerns. (A presenter is a Modesto resident or organization who signs the cablecast

agreement form and submits a show for airing. Presenters are legally responsible for the content of a show. The presenter may or may not be the producer of the program.)

E. Viewer's Discretion

Presenters are required to notify staff if their program contains matter inappropriate for children, or issues of a particularly sensitive nature for which viewer's discretion is advised. An announcement must be included at the beginning of a program to indicate that portions of the upcoming program may contain such materials. Presenters are requested to work with AccessModesto Community TV staff to appropriately schedule programs of this nature between the hours of 1:00 and 4:00 a.m.

F. Ownership

The presenter of any program submitted for cablecasting on any of the AccessModesto Community TV channels retains copyright ownership of the program. AccessModesto Community TV reserves the right to retain a copy of the program for later cablecasting on the community channel or for other non-commercial, promotional purpose.

G. Distribution Rights

The producer/presenter retains the rights of distribution for all programs aired on AccessModesto Community TV channels.

H. Underwriting and Sponsorship

Public Access producers are permitted to seek underwriting and sponsorship for their productions, as long as the support is in direct relation to the cost of program production. Free use of access facilities is not intended for the financial gain or employment of the producer. The producer may give on-air

credit to the person or organization that has given financial or in-kind support for the production or promotion of a program using the following guidelines:

- Length: A credit of up to 30 seconds is given per every 30 minutes of programming. For instance, a half hour show (30 minutes) would receive a 30-second slot for crediting sponsors and an hour show (60 minutes) would get one- minute (60 seconds) of time for sponsor acknowledgement.
- Placement: Credits may be placed at the beginning, middle, and/or end of a show. The credit may be split into any time increment.

However, the total amount of sponsorship credit may not exceed the amount determined by the length of the program. For instance, if you have one sponsor for a 30-minute show, they can use all 30 seconds of the time allotted for sponsorship. However, if you have 2 sponsors for a half hour (30-minute) show, the total amount of sponsorship credit time may not exceed 30 seconds. One sponsor may have 20 seconds, but then the other sponsor can only have 10 seconds.

- Contents: A credit may contain:
 - The Company/Person's Name
 - The Company Logo
 - The Company/Person's Address and/or Phone Number
 - A web site address
 - A qualifying line – A five word description of the business type that can describe the service or product provided by the company.

A credit MAY NOT contain

- A video or photograph of a product
- A description of services

- A slogan – A slogan is defined by AccessModesto Community TV as a copyrighted catch phrase associated with a company that is used for marketing purposes and established to assist that business in making a profit
- Phone number of a commercial venture or person
- A promotion of any form for the purchase or use of alcoholic or tobacco products

I. Non-commercial

Companies can sponsor shows:

- Which cover local, public community events relating to their product or service.

Companies cannot sponsor shows:

- About themselves
- Showing their product or service exclusively

V. Programming Publicity

A. Program Schedule

Specific requests for airtimes will be met when possible. Generally, program cablecast requests submitted to AccessModesto Community TV four (4) weeks prior to the requested airdate will be listed in the TV listings aired on the Public-Education-Government Bulletin Board. The schedule will also appear on the AccessModesto Community TV website (www.modesto.tv) which is updated weekly.

B. Producer's Promotion

Presenters are encouraged to promote and otherwise encourage viewership for their programs. Presenters can submit program description forms, which will be faxed by the AccessModesto Community TV staff to media outlets.

C. Cable Guide

The Cable Guide is aired daily on Channel 28. Programming on the AccessModesto Community TV channels will be submitted each week for this daily listing service.

VI. Program Scheduling Policies

AccessModesto Community TV's scheduling policies are designed to:

- Provide equitable allocation of available channel time, as determined by our Operating Policies and Procedures
- Give residents, education institution and government agencies of the City of Modesto and Stanislaus County priority in the allocation of airtime on the community access channels.
- Encourage viewership of the community channels
- Maximize opportunities for program promotion

A. General Scheduling

The channels will be scheduled in blocks of time dedicated to Public, Education, and Government programming. The Public Access block is divided into general categories to show a mix of different types of programming throughout the week.

a. Priority: To establish priority, the following will be considered:

- Time-dated programs
- Locally-produced programming
- Programs that have not been previously shown on the community channel
- Programs produced by new producers

B. Review

All program schedules are subject to review by the programming staff. No individual may reserve a specific time slot, except with an approved series. The programming schedule appears on the website at www.modesto.tv.

C. Series

Series seasons run quarterly for 12 weeks. There is a one-week break between seasons. Series applications are available to producers in the City Manager's Office, 1010 Tenth Street, Suite 6100; online at www.modesto.tv; or may be requested by fax or mail by calling 525-5104. The awarding of series time slots will be at the discretion of City of Modesto Local Cable Citizen Advisory Committee. Priority will be given to live series and new series programs.

D. New Users and Time Dated Programs

Staff reserves several time slots each week to accommodate programs created by new eligible users and / or time dated programs.

E. Repeats

AccessModesto Community TV reserve the right to repeat the same show within each programming block period. The number of playback times is limited to two (2) per week for all programs, with a maximum playback of three (3) times per week if scheduling allows. This excludes any contractual agreements the City may have with presenters.

F. Sensitive Programs

Programs, which contain material that may be inappropriate for children or deal with issues of a particularly sensitive nature, will be cablecast in accordance with FCC guidelines. It is the program presenter's responsibility to notify AccessModesto Community TV staff in advance if their program is of a sensitive nature. A Program Content Survey must be completed for each submission. The presenter is encouraged to work with AccessModesto Community TV staff to discuss special scheduling, disclaimers, and any other programming issues that may arise from cablecasting sensitive material.

G. Program Submission

A presenter must submit a signed Cablecast Agreement prior to submitting any programming. A Program Content Survey form must be submitted with each program. Programs submitted without the Program Content Survey will not be aired. Since a tape must be entered into the AccessModesto Community TV tape database, labeled, and scheduled, an airdate cannot be given at the time of submission. Airdates will be available approximately three business days after a tape has been submitted. Producers submitting episodes of an approved series must deliver the tape and Program Content Survey to AccessModesto Community TV at least seven days prior to their time slot to allow for scheduling, unless other arrangements are agreed upon with the Programming Manager.

H. Re-submittal of regular programs and series programs

Regular programs will air for up to two years. Upon a program's expiration, AccessModesto Community TV will act according to the instructions provided by the presenter on the cablecast agreement form. Re-submittals will be considered on a case-by-case basis. Series programs can be resubmitted for up to two more airdates. These additional airdates will be at the discretion of the programming department and will be subordinate to regular submittals and first-time series programs.

I. Failure to Submit Tape

In the case of a series, producers who fail to submit tapes on schedule will risk the loss of their time slots. Staff reserves the right to cancel the series if the producer fails to provide a new show within the agreed upon time frame.

J. Cancellation, Pre-emption and Rescheduling

Staff reserves the right to pre-empt the regular schedule as necessary to accommodate date sensitive programs, technical difficulties, education and/or

government related news conferences, or emergency announcements or programming. Staff shall make every effort to reschedule pre-empted programs at the earliest available time slot.

K. Program Length

The recommended length for programming on Access Modesto Cable TV is 28:30 minutes for a half hour show and 58:30 minutes for an hour show. These lengths allow time in-between programs for public service announcements (PSAs), stations identifications, and the interactive bulletin board. PSAs and station ID's are available at AccessModesto Community TV for producers to tag onto their programs.

L. Exceeding Time Slot

The community channels run several hours in the evenings and weekend by computer automation with a limited amount of VCR's for program playback. AccessModesto Community TV reserves the right to cut series programming which exceeds its scheduled time slot, unless prior arrangements are made. For example, a half-hour series program should not exceed 30:00 minutes, even by half a second. This could cause the program credits to be cut short, or the next program to start late. Series producers must submit a properly timed program in order to help maintain the schedule and create the best possible appearance of the community channels.

VII. Technical Issues

A. Tape Formats

Acceptable tape formats for cablecasting include DVD, Mini-DV, and DV Cam, SVHS, VHS.

B. Technical Standards

Tape-recorded programs must have technical standards high enough to deliver a clear and unbroken picture to cable subscribers. The audio must be clearly understandable and at audible levels without distortion. Tapes should be recorded in standard play speed (SP). Tapes recorded in extended play (EP) will not be accepted.

C. Technical Information

- a. There must be at least 30 and no more than 90 seconds of black at the head of the tape. Tapes will not be accepted with more than 90 seconds of black before the program. Color bars are not necessary.
- b. The black section must be followed by the Viewers Discretion Advisory, if required. The beginning of this Advisory is the beginning of the program.
- c. An identification slate, which includes the name and address of the presenter of the program, must then be displayed for at least 10 seconds. A phone number is optional.
- d. The program audio and video should begin within 3 seconds of the end of the presenter's slate.
- e. Program credits should appear at the end of the program. Credits should include the name of each crewmember

(unless anonymity is requested), and allowable credit to the underwriters/sponsors of the show.

- f. Repeat the presenter's slate. The end of this page is the end of the show.
- g. The end of the show must be followed by 30 seconds of black.

D. Label Information

The following information must be legibly included on labels affixed to both the videocassette and videocassette box. If the information is not on the label or is unreadable, the tape will not air.

- a. Presenter's name, local address, and phone number
- b. Program Title
- c. Exact length of programs (minutes, seconds, and frames timed from the first frame of the beginning title page to the last frame the end title page)
- d. Date (month and year) you are submitting the program

THE FOLLOWING ARE EXAMPLES OF ACCEPTABLE "VIDEOTAPE SPINE" LABELS

Stanislaus County Office of Education TRT- 30:00
"Making the Grade: Outdoor Education" Education Access, Ch. #27
Monday & Friday at 5:30 pm - Month of August

Fridays at 10 pm "TV Show" TRT- 30:00
Month of August Public Access

THE FOLLOWING ARE EXAMPLES OF ACCEPTABLE "VIDEOTAPE FACE" LABELS

S.C.O.E
"Making the Grade"
AUGUST
Mon/Fri at 5:30 pm
Education Access, Ch. #27
TRT- 30:00

"TV SHOW"
AUGUST EPISODE
Fridays at 6:30 pm
Ch. #2 TRT- 30:00

V. INFRACTIONS AND APPEALS PROCESS

A. Violations

Violations of AccessModesto Community TV's programming policies and rules, or breaches of the Statement of Compliance may subject the offender to immediate forfeiture of the privilege of using the channel, facilities, and services. The City Manager, according to the severity and frequency of the infractions, will determine the duration of the forfeiture. Violations of AccessModesto Community TV's Operating Policies and Procedures will be documented in writing in the user's file. Violators of the AccessModesto Community TV Policies and Procedures will face the following penalties:

- First Violation: Loss of privileges for six (6) months
- Second and Repeat Violations: Loss of privileges for one (1) year and a possible fine.

B. Appeals Process

If staff imposes sanctions on a user or refuses to cablecast a user's program, the user may appeal to the Local Cable Citizen Advisory Committee for a hearing. The following steps shall be followed for appeals:

1. User first meets with the AccessModesto Community TV Manager to discuss his/her concern.
2. If the user feels his/her concern has not been resolved, the user must present a written report to the Local Cable Citizen Advisory Committee, which will review and make recommendations to the Modesto City Council. If a quorum of the Local Cable Citizen Advisory Committee is not available, appeals will be taken directly to the Modesto City Council for review.

3. The Modesto City Council may request a public hearing with the user, or may direct the AccessModesto Community TV Manager to respond to the report.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-76**

**A RESOLUTION ESTABLISHING LITTER REMOVAL AND LANDSCAPE
MAINTENANCE FEES ASSOCIATED WITH THE "DON'T TRASH
MODESTO" CAMPAIGN**

WHEREAS, in 2001, the City embarked upon a campaign to reduce litter and improve the image of our community, and

WHEREAS, the bulk of the City's image enhancement efforts has been accomplished largely through private donations of funds, materials and labor, and

WHEREAS, since 1994, the City has used Neighborhood Environmental Action Teams [NEAT] to channel beautification volunteers, and

WHEREAS, the format of the NEAT program originally involved only donated labor and no paid sponsorships, and

WHEREAS, the "Don't Trash Modesto" Campaign provides opportunities for paid sponsorships as well as donated labor as part of the NEAT program, and

WHEREAS, City staff is recommending that NEAT program volunteers can either perform the work of litter removal and landscape maintenance themselves or pay others to perform the work as arranged by city staff, and

WHEREAS, the proposed litter removal and landscape maintenance fees for volunteers wishing to pay others are one hundred dollars (\$100.00) per mile to Adopt a Right of Way, fifteen dollars (\$15.00) per mile to Adopt a Trail, and forty cents (\$.40) per square foot to Adopt a Planter, and negotiated on a case by case basis to Adopt a Park, and

WHEREAS, the proposed fees are based upon current contract costs and reflect the actual cost of performing beautification and litter removal services, and

WHEREAS, the proposed fees would help offset the costs for the Honor Farm Deputy and inmates that perform litter removal, and

WHEREAS, the Economic Development Committee recommended approval by the City Council at its January 13, 2003, meeting, and

WHEREAS, by an agenda report dated January 23, 2003, from the Operations and Maintenance Director, city staff recommended to the City Council that litter

removal and landscape maintenance fees associated with the "Don't Trash Modesto" campaign be established, a copy of said report is on file in the City Clerk's office, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council to be held at 5:30 p.m. on February 11, 2003, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of receiving public comment on the proposed fees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the litter removal and landscape fees associated with the "Don't Trash Modesto" Campaign as follows:

<u>NEAT Zone</u>	<u>Monthly Fee</u>
Adopt a Right of Way	\$100 per mile for litter removal
Adopt a Trail	\$ 15 per mile for litter removal
Adopt a Park	negotiated by park and activity
Adopt a Planter	\$.40 sq ft. for landscape maintenance contract

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

Mike Milich
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-77**

**A RESOLUTION ESTABLISHING PASSENGER FARES FOR MODESTO
AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS COMMUTER
ROUTES AND RESCINDING RESOLUTION NO. 2000-639.**

WHEREAS, the City of Modesto provides commuter services on Modesto Area Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train station (MAX ACE Express), and

WHEREAS, due to increasing costs of operation City staff is recommending increasing fares for the BART Express and ACE Express routes, and

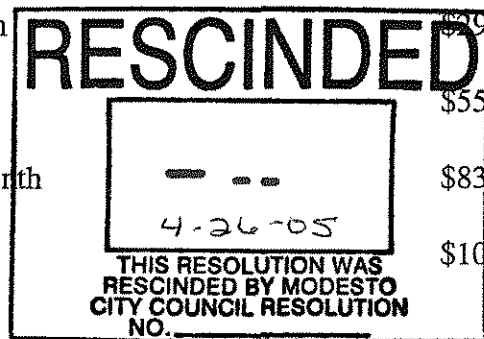
WHEREAS, the Economic Development Committee met on January 13, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated January 15, 2003, from the Engineering and Transportation Director, City staff recommended to the Council accepting staff's recommendation of increasing fares for the BART Express and ACE Express routes, and

WHEREAS, a duly noticed public hearing was held by the Council on February 11, 2003, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposal to increase fares on the BART Express and ACE Express routes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fares are hereby established for passengers riding on the MAX BART Express operating between Modesto and the Dublin/Pleasanton BART station:

- | | | |
|----|---------------------|----------|
| 1. | One-fourth Month | \$29.00 |
| 2. | One-half Month | \$55.00 |
| 3. | Three-fourths Month | \$83.00 |
| 4. | Full Month | \$106.00 |



- | | | |
|----|------------|---------|
| 5. | One-way | \$9.00 |
| 6. | Round-trip | \$11.00 |

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the following fares are hereby established for passengers riding on the MAX ACE Express operating between Modesto and the Manteca/Lathrop ACE Train station:

- | | | |
|----|--|---------|
| 1. | One-Way Trip | \$2.00 |
| 2. | 20-Ride Ticket (\$1.50 per one-way trip) | \$30.00 |

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the above fees shall go into effect on and after May 1, 2003.

BE IT FURTHER RESOLVED that Resolution No. 2000-639, adopted by the City Council on December 12, 2000, is hereby rescinded effective April 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-78**

**A RESOLUTION DIRECTING STAFF TO PURCHASE TWO BUSES FOR THE
MODESTO AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS
COMMUTER ROUTES.**

WHEREAS, the City of Modesto provides commuter services on Modesto Area Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train station (MAX ACE Express), and

WHEREAS, City staff is recommending the purchase of two buses to improve service quality and provide a spare bus for said routes, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated January 15, 2003, from the Engineering and Transportation Director, City staff recommended to the Council accepting staff's recommendation of purchasing two additional buses to operate on the MAX BART Express and MAX ACE Express routes, and

WHEREAS, the estimated cost of the two buses is \$770,000, and

WHEREAS, the cost of the buses will be funded with a combination of federal (83% of total cost) and Local Transportation Fund (17% of total cost) dollars.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is hereby directed to include in the fiscal year 2003-04 budget funds for the purchase of two buses to be used on the MAX BART Express and MAX ACE Express routes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-79**

A RESOLUTION DIRECTING STAFF TO PROMOTE THE MODESTO AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS COMMUTER ROUTES.

WHEREAS, the City of Modesto provides commuter services on Modesto Area Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train station (MAX ACE Express), and

WHEREAS, City staff is recommending that these two routes be promoted to increase ridership, reduce traffic congestion, and improve air quality, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated January 15, 2003, from the Engineering and Transportation Director, City staff recommended to the Council accepting staff's recommendation to promote the MAX BART Express and MAX ACE Express routes, and

WHEREAS, a more comprehensive promotional program will alert consumers to the potential for commuting to the Bay Area using public transportation and is likely to increase fare revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is hereby directed to promote the MAX ACE Express and MAX BART Express routes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST:

Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-80**

A RESOLUTION AMENDING RESOLUTION NO. 2000-250 ENTITLED "A RESOLUTION APPROVING A MULTI-YEAR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE MANAGEMENT ASSOCIATION, EFFECTIVE JUNE 20, 2000" TO PROVIDE INCREASED PAYMENT OF HEALTH, DENTAL AND VISION BENEFITS FOR EMPLOYEES WITH FAMILY COVERAGE AND INCREASED PAYMENT OF RETIREMENT BENEFITS TO EMPLOYEES REPRESENTED BY MODESTO POLICE MANAGEMENT ASSOCIATION (MPMA).

WHEREAS, the City of Modesto (hereafter referred to as "CITY") and Modesto Police Management Association (hereafter referred to as "MPMA") entered into a Memorandum of Understanding on May 23, 2000, covering the term of June 20, 2000, through June 27, 2005, which provides authorized increases in CITY'S contribution toward Health, Dental and Vision premiums of \$30 effective August 2003, and \$30 effective August 2004, and which provides that the CITY shall make no contribution toward employee's 9% Retirement contribution effective July 29, 2003, and

WHEREAS, representatives of CITY and the MPMA have met and discussed the issue of CITY contribution toward Health, Dental and Vision premiums for employees with Family coverage and have agreed to amend the current MPMA MOU to include additional increases totaling \$215/month to be phased-in over a 16 month period, and

WHEREAS, representatives of the CITY and MPMA have met and discussed the issue of the CITY'S contribution toward retirement and have agreed to amend the current MPMA MOU to provide for increasing the CITY'S payment of the employee's contribution to the Public Employees' Retirement System to 7.5%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Memorandum of Understanding between

the City of Modesto and the Modesto Police Management Association effective February 11, 2003, to increase the CITY'S contribution to Family Health, Dental and Vision to \$556.76/month effective March 25, 2003, to \$656.76/month effective August 1, 2003, and to \$731.76/month effective August 1, 2004,

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves that the CITY shall pay 4% of the Employee's 9% Retirement contribution, effective March 25, 2003, and CITY shall pay 7.5% of the Employee's 9% contribution effective March 9, 2004. Effective March 25, 2003, CITY paid employee contributions shall be reported to the Public Employees' Retirement System as compensation. CITY and MPMA further agree to cost sharing, effective July 1, 2004, for increases in the Normal Cost of Retirement in excess of 18.3%.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

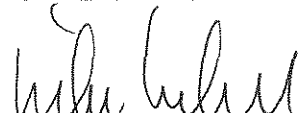
ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By



MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-81**

A RESOLUTION AMENDING RESOLUTION NO. 2000-252 ENTITLED "A RESOLUTION APPROVING AN AMENDMENT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS ASSOCIATION, EFFECTIVE JUNE 20, 2000" TO PROVIDE INCREASED HEALTH, DENTAL AND VISION BENEFITS FOR EMPLOYEES WITH FAMILY COVERAGE AND INCREASED RETIREMENT BENEFITS TO EMPLOYEES REPRESENTED BY MPOA.

WHEREAS, the City of Modesto (hereafter referred to as "CITY") and Modesto Police Officers Association (hereafter referred to as "MPOA") entered into a Memorandum of Understanding on December 14, 1999 covering the term of December 21, 1999, through June 30, 2003 (Resolution No. 1999-621), and

WHEREAS, the CITY and MPOA entered into an amendment to said MOU on May 23, 2000, effective June 20, 2000, and extending the term of the MOU through December 27, 2004, and said amendment provides that the CITY shall make no contribution toward employee's 9% Retirement contribution effective July 29, 2003, and

WHEREAS, the CITY is having difficulty recruiting Police Officers, and

WHEREAS, representatives of CITY and the MPOA have met and discussed the issue of CITY contribution toward Health, Dental and Vision premiums for employees with Family coverage and have agreed to amend the current MPOA MOU to include additional increases totaling \$215/month to be phased-in over a 16 month period, and

WHEREAS, representatives of the CITY and MPOA have met and discussed the issue of the CITY'S contribution toward retirement and have agreed to amend the current MPOA MOU to provide for increasing the CITY'S payment of the employee's contribution to the Public Employees' Retirement System to 7.5%, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Memorandum of Understanding between the City of Modesto and the Modesto Police Officers Association effective February 11, 2003, to increase the CITY'S contribution to Family Health, Dental and Vision to \$556.76/month effective March 25, 2003, to \$656.76/month effective August 1, 2003 and to \$731.76/month effective August 1, 2004.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves that the CITY shall pay 4% of the Employee's 9% Retirement contribution effective March 25, 2003, and CITY shall pay 7.5% of the Employee's 9% contribution effective March 9, 2004. Effective March 25, 2003, CITY paid employee contributions shall be reported to the Public Employees' Retirement System as compensation. CITY and MPOA further agree to cost sharing, effective July 1, 2004, for increases in the Normal Cost of Retirement in excess of 18.3%.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

RESCINDED

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-81A**

Jun 26 2003
RESCINDED BY MODESTO
CITY COUNCIL
RESOLUTION
2003-350

A RESOLUTION AMENDING SECTION 8 OF RESOLUTION NO. 2002-307 ENTITLED "A RESOLUTION GRANTING SALARY AND BENEFIT CHANGES TO MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS, AMENDING THE CLASS RANGE TABLE FOR POLICE CAPTAIN (EXHIBIT 'G') TO PROVIDE A 2.5% EQUITY ADJUSTMENT EFFECTIVE JUNE 18, 2002, AND RESCINDING RESOLUTION NO. 2001-270" TO PROVIDE INCREASED CONTRIBUTIONS FOR HEALTH BENEFITS FOR UNREPRESENTED SWORN FIRE MANAGEMENT AND UNREPRESENTED SWORN POLICE MANAGEMENT EMPLOYEES.

WHEREAS, by Resolution No. 2002-307, effective June 18, 2002, City granted salary and benefit increases to unrepresented Management and Confidential employees, and

WHEREAS, CITY desires to amend those benefits as they relate to health contributions for unrepresented Sworn Fire Management employees and unrepresented Sworn Police Management employees to increase the CITY'S contribution toward Health, Dental and Vision premiums for said employees with Family coverage, and

WHEREAS, CITY previously authorized increases in CITY'S Health contribution of \$30/month effective August, 2003, and \$30/month effective August, 2004, and now desires to increase the CITY'S contribution by an additional \$215/month to be phased in over a 16 month period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending Section 8 of Resolution No. 2002-307 as it applies only to unrepresented Sworn Fire Management employees and unrepresented Sworn Police Management employees as follows:

DELETED

<u>Effective Date</u>	<u>Contribution</u>	
	<u>Family</u>	<u>Single</u>
August 1, 2001	\$416.76 mo.	\$317.98 mo.
August 1, 2002	\$456.76 mo.	\$317.98 mo.
March 25, 2003	\$556.76 mo.	\$317.98 mo.
August 1, 2003	\$656.76 mo.	\$347.98 mo.
August 1, 2004	\$731.76 mo.	\$377.98 mo.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

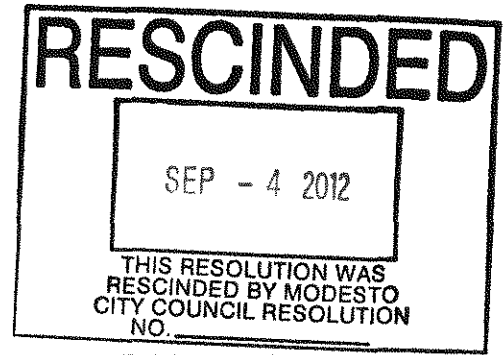
ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-82**

A RESOLUTION AMENDING A LABOR POLICY PROVIDING FOR PUBLIC EMPLOYEES' RETIREMENT SYSTEM EMPLOYEE CONTRIBUTIONS TO BE PAID BY THE CITY ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE OFFICERS ASSOCIATION ("MPOA"). 2012-350

WHEREAS, by Resolution No. 2000-253 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the Council desires to amend said policy,

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

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 25, 2003, the City of Modesto elects to pay four percent (4%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 9, 2004, the City of Modesto elects to pay seven and one-half percent (7.5%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

This benefit shall apply to all employees represented by the Modesto Police Officers Association (MPOA) who are classified police safety members by PERS.

BE IT FURTHER RESOLVED that this Resolution shall become effective on March 25, 2003.

BE IT FURTHER RESOLVED that effective March 25, 2003, Resolution No. 2000-253 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM

By 
MICHAEL D. MILICH, City Attorney

RESCINDED

SEP - 4 2012

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-83**

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2012-351

A RESOLUTION AMENDING A LABOR POLICY PROVIDING FOR CITY PUBLIC EMPLOYEES' RETIREMENT SYSTEM EMPLOYEE CONTRIBUTIONS TO BE PAID BY THE CITY ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE MANAGEMENT ASSOCIATION ("MPMA") AND UNREPRESENTED MANAGEMENT POLICE SAFETY MEMBERS.

2012-351
2012-352

WHEREAS, by Resolution No. 2000-251 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the Council desires to amend said policy,

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

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 25, 2003, the City of Modesto elects to pay four percent (4%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 9, 2004, the City of Modesto elects to pay seven and one-half percent (7.5%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

This benefit shall apply to all employees represented by the Modesto Police Management Association (MPMA) who are classified police safety members by PERS and to unrepresented management personnel classified as police safety members by PERS.

BE IT FURTHER RESOLVED that this Resolution shall become effective on March 25, 2003.

BE IT FURTHER RESOLVED that effective March 25, 2003, Resolution No. 2000-251 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

ATTEST: Jean Zaher
JEAN ZAHER, City Clerk

APPROVED AS TO FORM

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-84**

A RESOLUTION AMENDING THE FISCAL YEAR 02-03 OPERATING BUDGET TO TRANSFER \$208,900 FROM 7510-800-8000-8003 EMPLOYEE BENEFITS FUND, TO THE GENERAL FUND, 0100-190-1961-0151, \$46,500; 0100-180-1832-0151, \$2,400; 0100-190-1961-0160, \$160,000; TO PROVIDE FUNDING TO INCREASE THE CITY'S CONTRIBUTION TOWARD FAMILY HEALTH, DENTAL, AND VISION BENEFITS AND RETIREMENT BENEFITS FOR EMPLOYEES REPRESENTED BY MPOA, MPMA AND FOR UNREPRESENTED SWORN POLICE AND SWORN FIRE MANAGEMENT EMPLOYEES.

WHEREAS, the City desires to increase the City's contributions toward Health, Dental, and Vision Benefits for employees represented by Modesto Police Officers Association (MPOA), Modesto Police Management Association (MPMA) and for unrepresented Sworn Police and Sworn Fire Management employees who have Family coverage, and

WHEREAS, the City also desires to increase the City's payment toward the employees retirement contribution for employees represented by MPOA, MPMA and for unrepresented Sworn Police Management employees, and

WHEREAS, in addition to funds budgeted within the Retiree Health Sick Leave Conversion, 7510-030-6650-0128, an additional \$208,900 is needed to implement the increases for Family Health, Dental and Vision coverage and increases in the City's payment of the employee's retirement contribution,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2002-03 Operating Budget is hereby amended to transfer \$208,900 from the Employee Benefits Fund Reserve 7510-800-8000-8003, to: General Fund

0100-190-1961-0151 \$46,500

0100-180-1832-0151 \$2,400

0100-190-1961-0160 \$160,000

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-85**

A RESOLUTION ACCEPTING THE PRELIMINARY CAPITAL FACILITY FEES, INITIATING PROCEEDINGS TO ADOPT THE UPDATED CFF BY SETTING A PUBLIC HEARING TO BE HELD ON MARCH 11, 2003, TO REVIEW THE FINAL REPORT AND ADOPT THE UPDATED CAPITAL FACILITY FEES, AND DIRECTING STAFF TO PUBLISH LEGAL NOTICE OF THE PROPOSED CFF UPDATE

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facility Fees (CFF), and

WHEREAS, the City is in the process of updating its Capital Facility Fees, and

WHEREAS, the City of Modesto is in the process of updating its General Plan and General Plan Master Environmental Impact Report, and

WHEREAS the Capital Facilities FEES update has been coordinated to be consistent with the proposed update of the City's General Plan and Master Environmental Impact Report, and

WHEREAS, it is desirable to update the CFF prior to the final development of the updated financing plan for the Village One CFD,

WHEREAS, on January 27, 2003, the Finance Committee recommended the CFF report and preliminary fees be accepted and presented to the City Council for further consideration, and

WHEREAS, on February 11, 2003, the City Council considered City staff's recommendation to accept the CFF Update Report and the preliminary CFF, initiate proceedings to adopt the updated CFF by setting a public hearing to be held on March 11, 2003, to review the final report and adopted the updated CFF and directing staff to publish legal notice of the proposed CFF update.

NOW, THEREFORE, BE IT RESOLVED that the Council hereby accepts the CFF Update Report, dated January 31, 2003, and the preliminary CFF and attached to this resolution, and made a part hereof.

BE IT FURTHER RESOLVED that the Council hereby initiates proceedings to adopt the updated CFF and sets a public hearing to be held on Tuesday, March 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California for the purpose of reviewing the final CFF Report and adoption of updated Capital Facility Fees, and hereby directs staff to publish legal notice of the public hearing pursuant to Government Code Section 65090.

BE IT FURTHER RESOLVED that the Council sets a public hearing at its regularly scheduled Council meeting of March 11, 2003 to review the final Capital Facility Report and to adopt updated Capital Facility Fees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-86

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRUCE JONES AND RALPH JUAREZ FROM THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, BRUCE JONES and RALPH JUAREZ were appointed members of the Public Events Advisory Committee on June 25, 2002, and

WHEREAS, BRUCE JONES and RALPH JUAREZ have tendered their resignations from the Public Events Advisory Committee, and

WHEREAS, BRUCE JONES and RALPH JUAREZ have been devoted and sincere public servants and have contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of BRUCE JONES and RALPH JUAREZ from the Public Events Advisory 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 the City, hereby expresses its sincere appreciation to BRUCE JONES and RALPH JUAREZ for their outstanding service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-87**

**A RESOLUTION APPOINTING CHRIS MURPHY TO THE PUBLIC EVENTS
ADVISORY COMMITTEE**

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Mayor Sabatino's appointment has since resigned, and

WHEREAS, Mayor Sabatino has nominated CHRIS MURPHY to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints CHRIS MURPHY to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-88

**A RESOLUTION APPOINTING DANA PLUMMER TO THE PUBLIC EVENTS
ADVISORY COMMITTEE**

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Councilmember Keating's appointment has since resigned, and

WHEREAS, Councilmember Keating has nominated DANA PLUMMER to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints DANA PLUMMER to the Public Events Advisory Committee.

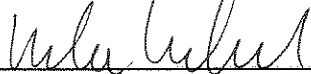
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 89

A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL 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 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

1ST QTR FY 02-03 ADJUSTMENTS - SCHEDULE A

Type of Account	Description	Fund	Agency	Object/ Orgn	App Revenue Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
1) Appropriation	Real Property M&R Supplies	0100	480	4612	0360	504,002	363,000	867,002
	Non-CIP Other	0700	410	4120	5900	1,533,611	(363,000)	1,170,611
Transfer-Rev	Transfer adjustment	0100	700	4612	9070	2,848,970	363,000	3,211,970
Transfer-Exp	Transfer adjustment	0700	700	4612	7010	2,848,970	363,000	3,211,970

This request is for a transfer of \$363K from Gas Tax Fds. To the Streets Div. Oper. Budget, acct. # 0100-480-4612-0360. This funding was removed from the Streets Div. Budget as part of the 02-03 budget process with the understanding it would be backfilled with Gas Tax fds. This will allow us to overlay 3.6 lane miles of residential roadways. If not, funding will need to wait until July 03 to begin 2003 street overlay paving season.

2) Revenue	Storm Drain Loan Transfer	6280	700	7000	9260	0	635,000	635,000
Appropriation	Storm Drain Loan Reserve	6280	800	8000	8003	0	635,000	635,000
	Village I - CFD Reserve	2600	800	8000	8003	0	(635,000)	(635,000)
	Transfer from Village I-CFD	2600	700	7000	7628	0	635,000	635,000

City Council authorized \$635k payback to Storm Drain Fund. (reimbursement for purchase of the VI Central Basin land).

3) Carryover O&M Maintenance

Appropriation	Water Carryover	6100	480	5013	0360	325,000	122,324	447,324
	Water Carryover	6100	480	5016	0360	300,000	127,191	427,191
	Water Carryover	6150	480	5056	0360	30,000	29,866	59,866
	Water Carryover	6160	480	5066	0360	17,000	17,000	34,000
	Wasterwater Carryover	6210	480	5225	0360	0	458,902	458,902
	Wasterwater Carryover	6210	480	5226	0360	622,985	198,846	821,831
	Wasterwater Carryover	6210	480	5227	0360	464,845	402,884	867,729
Appropriation	Water Reserve-Zone 1	6100	800	8000	8003	0	(249,515)	(249,515)
	Water Reserve-Zone 2	6150	800	8000	8003	(320,000)	(29,866)	(349,866)
	Water Reserve-Zone 3	6160	800	8000	8003	0	(17,000)	(17,000)
Appropriation	Sewer Reserve	6210	800	8000	8003	(232,353)	(1,060,632)	(1,292,985)
							(1,357,013)	(1,357,013)

O&M requested all positive balances from year-end FY 01-02 maintenance accounts be re-appropriated to FY 02-03 balances. This was the understanding resulting from the move of these accounts from the Capital Improvements Program (CIP) to the operating budget for annual maintenance items.

Grant Accountant Section

Bus Fund Adjustments:

4) Revenue	LTF Transit Operations	6510	160	1600	3158	3,002,470	(1,295,488)	1,706,982
Revenue	LTF Transit Operations	6510	160	1600	3159		1,195,213	1,195,213
Revenue	STAF Transit Operations Grant	6510	160	1600	3161	798,216	76,815	875,031
Revenue	LTF Amtrak Operations	6510	160	1600	3162	0	66,943	66,943
Revenue	LTF Transit Capital Grant	6510	160	1600	3204	883,400	(862,843)	20,557
Revenue	FTA5307 CA-90-X818-00	6510	160	1600	3541	0	270,230	270,230
Revenue	FTA5307 CA-90-Y162-00 Operate	6510	160	1600	3548	0	1,386,843	1,386,843
Revenue	FTA Transit Capital Grant	6510	160	1600	3604	1,533,600	(1,533,600)	0
Revenue	FTA Transit Capital Grant Carryover	6510	160	1600	3605	1,386,834	(1,386,834)	0
Revenue	Fed. Funding for Operations	6510	160	1600	3606	75,000	(75,000)	0
Revenue	Cash Fares & Daily Passes	6510	160	1600	4504	1,041,716	76,284	1,118,000

1ST QTR FY 02-03 ADJUSTMENTS - SCHEDULE A

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
Revenue	Student Passes Monthly	6510	160	1600	4507		164,221	(221)	164,000
Revenue	Bart Express Passes	6510	160	1600	4508		0	80,000	80,000
Revenue	E&H Passes Monthly	6510	160	1600	4510		183,971	29	184,000
Revenue	E&H Ticket Books	6510	160	1600	4511		21,673	327	22,000
Revenue	Commuter Books	6510	160	1600	4513		2,630	370	3,000
Revenue	Student Ticket Books	6510	160	1600	4514		39,969	31	40,000
Revenue	Reg Ride Book Sales	6510	160	1600	4519		269,122	(122)	269,000
Revenue	Reg Monthly Bus Passes	6510	160	1600	4522		219,415	90,585	310,000
Revenue	County Employee Fare Reimp.	6510	160	1600	4530		0	10,000	10,000
Revenue	Interest	6510	160	1600	6101		0	100,000	100,000
Revenue	Bus Bench Advertising	6510	160	1600	8149		0	10,000	10,000

Reallocation of revenues to match expenses.

5) Dial-A- Ride:

Revenue	LTF Transit Operations	6520	160	1673	3158		0	627,475	627,475
Revenue	LTF Transit Def Rev Operations	6520	160	1673	3159		0	242,453	242,453
Revenue	FTA5307 CA-90-Y162-00 Operate	6520	160	1673	3548		0	661,382	661,382
Revenue	FTA-Capital Grant Carryover	6520	160	1673	3605		743,600	(743,600)	0
Revenue	Passenger Rev.-Dial-A-Ride	6520	160	1673	4501		0	287,985	287,985
Revenue	Interest	6520	160	1673	6101		0	20,000	20,000
	Total Revenue								

5a) Transportation Center

Revenue	FTA5307 CA-90-Y162-00 Operate	6530	160	1674	3548		0	35,000	35,000
Revenue	Interest	6530	160	1674	6101		0	10,000	10,000
Revenue	Telephone Commissions	6530	160	1674	6125		0	9,000	9,000
Revenue	Lease of Land	6530	160	1674	6201		0	100,000	100,000
Revenue	Vending Commissions	6530	160	1674	8115		0	8,000	8,000
	Total Revenue						0	162,000	162,000

Reallocation of revenue projection for multi-year project requiring use of fund balance to support full funding of project.

6) Fund 1400, 143, 170 and 0520 Adjustments:

Appropriation	Reduce Virginia Corridor Transfer	0520	700	3122	7143		242,000	(84,000)	158,000
Revenue	Reduce Virginia Corridor Transfer	1430	700	3122	9052		242,000	(84,000)	158,000
Appropriation	Transaction applied in Prior Year	0520	700	D247	7170		108,000	(108,000)	0
Revenue	Transaction applied in Prior Year	1700	700	D247	9052		108,000	(108,000)	0
Appropriation	Transaction applied in Prior Year	0520	700	M271	7140		75,000	(75,000)	0
Revenue	Transaction applied in Prior Year	1400	700	M271	9520		75,000	(75,000)	0
Appropriation	Budgeted twice in Blue Sheet in FY03	0520	160	N045	6010		75,000	(45,000)	30,000
Appropriation	Budgeted twice in Blue Sheet in FY03	0520	160	N045	6040		755,000	(325,000)	430,000
Appropriation	Budgeted twice in Blue Sheet in FY03	0520	160	N045	6050		25,000	(25,000)	0
Appropriation	Budgeted twice in Blue Sheet in FY03	0520	160	N045	6060		60,000	(30,000)	30,000
Appropriation	Increase Virginia Corridor	0520	310	M139	6010		270,000	134,000	404,000
Revenue	Increase Virginia Corridor	0520	310	M139	1213		0	393,000	393,000
Revenue	Virginia Corridor Transfer to meet difference	0520	700	M139	9143		0	11,000	11,000
Appropriation	Virginia Corridor Transfer to meet difference	1430	700	M139	7052		0	11,000	11,000

1ST QTR FY 02-03 ADJUSTMENTS - SCHEDULE A

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
7)	Kansas Needham CIP adjustments:								
Revenue	Kansas Needham	0700	430	F265	3137		3,000,000	10,000,000	13,000,000
Revenue	Kansas Needham	0700	430	F265	3162		1,200,000	(1,200,000)	0
Revenue	Kansas Needham	0700	430	F265	3536		10,000,000	(10,000,000)	0
Appropriation	Gas Tax Reserve	0700	800	8000	8003		0	(1,200,000)	(1,200,000)

This adjustment corrects the revenue budget to correspond to the expenditure budget considered last month by the Council (BT023)
 This budget is consistent with all previous Council actions and does not materially change the CIP budget. It is essentially a correction.

8)	Cable Contract								
Appropriation	Communicatiions & Marketing	0100	020	0219	0235		212,280	110,000	322,280
Appropriation	General Fd. Reserve	0100	800	8000	8003		(2,103,641)	(110,000)	(2,213,641)

This adjustment is for a Cable Contract as part of the 02-03 Budget process \$110,000 of cable set asides money was to be transferred to the City Manager's budget for cable contract work. This transfer was not completed.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-90**

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS FOR A PELANDALE MCHENRY PROJECT STUDY REPORT AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE PELANDALE MCHENRY PROJECT STUDY REPORT

WHEREAS, Pelandale Avenue is planned to be a six lane expressway, and

WHEREAS, McHenry Avenue is planned to be a six lane arterial street, and

WHEREAS, this intersection will need to facilitate over 100,000 vehicles per day,

and

WHEREAS, an urban interchange is planned to be constructed at this location,

and

WHEREAS, City desires to proceed with a consultant selection process to include a Request for Qualifications (RFQs) and a Request for Proposals (RFPs) for the Pelandale McHenry Project Study Report, and

WHEREAS, City staff has proposed evaluation criteria to be included in the Request for Qualifications and the Request for Proposals, and

WHEREAS, the recommended evaluation criteria to be used in selecting a firm to perform the Pelandale McHenry Project Study Report is attached, and

WHEREAS, the Economic Development Committee met on February 10, 2003, reviewed the Pelandale McHenry Project Study Report RFQ/RFP process and recommended proceeding with the consultant selection process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City staff to proceed with a Request for Qualifications and a Request for Proposals for the Pelandale McHenry Project Study Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the evaluation criteria as shown in the attached exhibit.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

February 7, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Qualifications for City of Modesto
Pelandale/McHenry(SR108) Urban Interchange
Project Study Report

Dear Consultant:

The City of Modesto is soliciting qualifications of engineering consulting for the preparation of the Pelandale/McHenry Urban Interchange Project Study Report. **If you wish to be considered for this work, please submit five (5) copies of the qualifications by 4:00 p.m. by XXXX, 2003 to:**

City of Modesto
Engineering and Transportation Department 4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Richard Ulm

Via Mail: P.O. Box 642, Modesto, CA 95353

Once the qualifications have been evaluated, request for proposals (RFPs) will be sent to the firms City staff have determined are the most qualified to perform the project. Following evaluation of the proposals, interviews will be conducted and the City will select a consultant.

The City will evaluate all qualifications submitted, but the Request for Qualifications does not commit the City of Modesto to award a contract, to pay for any costs incurred in preparation or presentation of a Statement of Qualifications, or to procure a contract for services. The selection considerations for evaluating the Statement of Qualifications is included in this RFQ following the Contents and Requirements section.

BACKGROUND:

Pelendale Avenue is planned to be a 6-lane expressway and McHenry Avenue (SR108) is planned to be a 6-lane principal arterial. McHenry Avenue is a state highway. Consequently, the project study report(PSR) shall conform to Caltrans format and will require review and approval by Caltrans.

It is projected that this intersection will need to facilitate over 100,000 vehicles per day at the City's General Plan build-out. A single-point urban interchange is planned at this location to accommodate this level of traffic.

PLAN OF STUDY:

(A more detailed work plan will be included below in the final RFQ)

STATEMENT OF QUALIFICATIONS CONTENTS AND REQUIREMENTS:

Each proposal shall include the following information:

PROJECT MANAGER: The consultant's Project Manager is defined to be the individual within the prime consultant's firm who is directly responsible for and engaged in performing the required services. The Project Manager is the most knowledgeable individual regarding all aspects of the project but not necessarily a principal of the firm. The Project Manager should be located within two hours travel time of the project site.

Consultant is to provide the Project Manager's:

- Name and title, name of firm employed by, years of experience with this firm, and years of experience with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experiences: For not more than five (5) projects, provide the following information on two pages. Include project(s) he/she is currently working on and schedule to which he/she is committed.
 - Owner (or client firm is subconsultant), project description (including size), location and completion date.
 - Name, address and phone number of knowledgeable owner/client's representative.
 - Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
 - Firm with which the individual was employed during project experience.

OTHER KEY PROJECT STAFF: Not more than four individuals may be listed. Provide for each individual:

- Name
- Specific project responsibility and functions to be performed
- Name of firm employed and office location where individual will perform required project services
- Years of experience with this firm and with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experience (not more than five projects)
 - Owner, project description (including size), location and completion date.
 - Name, address and phone number of knowledgeable owner/client's representative.
 - Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
 - Firm with which the individual was employed during project experience.

FIRM(S) EXPERIENCE AND PRODUCTION CAPABILITIES: The following information is required for the prime consultant and any proposed subconsultant:

- Office address(s) in which services are to be performed and percentage of work to be performed in each office.
- Percentage of total fees in last five years, firm wide, received from similar service.
- Facilities, manpower and production capabilities of office(s) in which work is to be performed.
- Listing of recent experience related to this project in California, including type and size of consulting services provided and name, address, and phone number of knowledgeable owner/client representative.

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any sub-consultant firms proposed by the consultant will also be considered when applying this policy. The funding source for this project does not prohibit the application of this policy in this case.

SELECTION CONSIDERATIONS:

Rating 1-5

A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.
2. Broad character and scope of past projects.
3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.
4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.
5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.
7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.
8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.
10. Location of firm in relation to City of Modesto and project size.
11. General comprehension of the study assignment and responsiveness to special study requirements.
12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.
13. Firm reputation as relates to principles, credibility, and attitude.

ADDITIONAL INFORMATION:

Use up to 2 pages to provide any additional information supporting your firm's qualifications for the proposed project.

The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy statements of qualifications are neither expected nor desired.

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

MILESTONE	DATE
Issue Request for Qualifications (RFQs)	TBD
RFQs Due	TBD
Select and Issue Request for Proposals (RFPs)	TBD
RFPs Due	TBD
Consultants Interviews	TBD
Award Contract	TBD

A selection committee will review the responses and determine the best-qualified consultant(s), which will be invited to respond to an RFP.

If you have any questions, please contact me at (209) 577-5215.

Sincerely,

Richard Ulm
Deputy Director

February 7, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Proposals for City of Modesto
Pelandale/McHenry(SR108) Urban Interchange
Project Study Report

Dear Consultant:

The City of Modesto is soliciting proposals for the preparation of the Pelandale/McHenry Urban Interchange Project Study Report. Your firm has been selected to submit a proposal from those firms which submitted a statement of qualifications. **If you wish to be considered for this work, please submit five (5) copies of the proposals by 4:00 p.m. by XXXX, 2003 to:**

City of Modesto
Engineering and Transportation Department
4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Richard Ulm

Via Mail: P.O. Box 642, Modesto, CA 95353

Following evaluation of the proposals, interviews will be conducted and the City will select a consultant.

The City will evaluate all proposals submitted, but this Request for Proposals does not commit the City of Modesto to award a contract, to pay for any costs incurred in preparation or presentation of a Proposal, or to procure a contract for services. The selection considerations for evaluating the Proposal is included in this RFP following the Contents and Requirements section.

PROPOSAL CONTENTS AND REQUIREMENTS:

Each proposal shall include the following sections:

1. Scope of Services

The Scope of Services section shall include a description of the intended approach to complete the project study report. The consultant should specify data and the expected level of support from City staff and a description of the project deliverables.

2. Project Team and Experience

This section should include the size of the organization and a list of the consultant's principals, employees, agents, and subconsultants, which the proposer anticipates assigning to this project. This list shall include a summary of the qualifications, licenses, and experience of each individual, the type of work to be performed and availability of each individual.

Additionally, this section will include a list of the most recent projects for which the consultant has performed similar services of similar scope, size, and complexity. This list shall include the name, contact person, address, and phone number of each party for whom the service was provided, as well as a brief description of the service performed, the dollar amount of the contract, and the date the project was completed.

3. Project Schedule

The consultant shall provide a proposed schedule for all services necessary to complete the project specifying the major tasks, the expected time to complete each task, and the interdependency of the tasks.

4. Estimated Level of Effort

The consultant shall provide an estimate of staff time, by task presented in the project schedule. This section will not include any estimate of costs.

5. Proposed Compensation

The consultant shall provide, in a separately sealed and clearly marked envelope, the cost to be charged to the City by task and a total proposed project cost. The cost proposal shall identify the overall multiplier and include direct labor costs and expenses including travel and high-end computer use. Cost proposals will not be opened until after each firm interviewed has been ranked and the firm deemed most qualified has been selected. All cost proposals will then be opened and will form the basis of negotiations for the contract.

6. Contract

The successful firm will be asked to execute the City's standard agreement for consultant services. A copy is attached for reference. (Attachment X) The proposal shall note any exceptions to the standard contract that would prevent the consultant from executing the contract in its present form.

7. Insurance Certificate

A consultant providing a copy of its insurance certificate, or a letter of intent to provide insurance from the issuing company (including a description of types of coverage and dollar amount limits) may be favorably considered.

8. Resumes

Consultant shall provide resumes for each individual project team member.

The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy proposals are neither expected nor desired.

PROJECT DESCRIPTION:

(A detailed project description will be included below in the final RFP)

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any sub-consultant firms proposed by the consultant will also be considered when applying this policy.

SELECTION CONSIDERATIONS:

Rating 1-5

A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.
2. Broad character and scope of past projects.

3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.
4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.
5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.
7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.
8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.
10. Location of firm in relation to City of Modesto and project size.
11. General comprehension of the study assignment and responsiveness to special study requirements.
12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.
13. Firm reputation as relates to principles, credibility, and attitude.

AWARD OF AGREEMENT:

Negotiations will begin with the firm deemed most qualified. If agreement cannot be reached in negotiations, the City will begin negotiations with the firm that is judged to be next most qualified. If the City determines to award the agreement, a Professional Services Agreement shall be sent to the successful consultant for the consultant's signature. No proposal shall be binding upon the City until after the agreement has been signed by duly authorized representatives of both the consultant and the City. The City reserves the right to reject any or all proposals, and to waive any irregularity. The award of the agreement, if made by the City, will be based on a total review and analysis of each

proposal and interview. The consultant will be required to submit insurance verification as noted in the standard contract prior to execution of the contract.

CONFLICT OF INTEREST:

The City's Conflict of Interest Code requires that consultants file a Statement of Economic Interests, when the consultant provides information, advice, recommendations or counsel to the City. Before the City enters into a contract for services with the selected firm, the firm will be required to report economic interest on the following:

1. Real Property Interest (geographically limited)
2. Sources of Income
3. Business Positions
4. Business Investments

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

MILESTONE	DATE
Issue Request for Proposals (RFPs)	TBD
RFPs Due	TBD
Consultants Interviews	TBD
Award Contract	TBD

If you have any questions, please contact me at (209) 577-5215.

Sincerely,

Richard Ulm
Deputy Director

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-91**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "AIRPORT DISTRICT
REPLACE WATER MAINS" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Airport District Replace Water Mains", has been completed by Dell Engineering, in accordance with the contract agreement dated June 5, 2001,

NOW, THEREFORE, BE IT RESOLVED that the "Airport District Replace Water Mains" project be accepted from said contractor, Dell Engineering, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$205,563.32 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-92**

A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH ECONOMICS RESEARCH ASSOCIATES TO RE-EXAMINE OPTIONS FOR THE CITY OF MODESTO GOLF PROGRAM AT A COST NOT TO EXCEED \$20,000.

WHEREAS, in 1998, the City of Modesto hired Economics Research Associates (ERA) to conduct a management audit of the City of Modesto Golf Program, and

WHEREAS, in order to minimize the fiscal impact to the General Fund and to maximize the City's investment in the Golf Program infrastructure, staff is recommending that the management options for the Golf Program be re-examined, and

WHEREAS, inasmuch as ERA performed the first audit and already has the background information needed to complete a revised audit, staff feels that this firm is the most qualified, and

WHEREAS, staff feels that an agreement with ERA can be negotiated at a cost not to exceed \$20,000, and

WHEREAS, funds are budgeted in the Parks, Recreation and Neighborhoods Department's Administration budget through carryover reserve (0100-300-3001-8099), and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to authorize staff to negotiate an agreement with Economics Research Associates to re-examine options for the City of Modesto Golf Program at a cost not to exceed \$20,000,

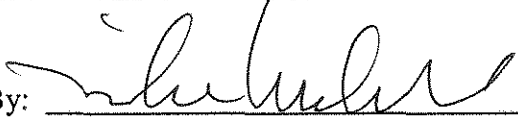
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to negotiate an agreement with Economics Research Associates to re-examine options for the City of Modesto Golf Program at a cost not to exceed \$20,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	Frohman
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-93**

A RESOLUTION AWARDING A CONTRACT TO ALTA PLANNING AND DESIGN OF BERKELEY, CALIFORNIA FOR PROFESSIONAL SERVICES TO UPDATE THE MODESTO NON-MOTORIZED TRANSPORTATION MASTER PLAN AT A COST NOT TO EXCEED \$77,320, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, in July 1996, the City Council adopted the Modesto Non-Motorized Transportation Master Plan ("Plan"), which describes a comprehensive system of on- and off-street non-motorized transportation facilities, and

WHEREAS, this Plan needs to be updated to reflect the growth of Modesto and to capitalize on efforts to revitalize the downtown area and to emphasize bicycle and pedestrian safety, and

WHEREAS, in order to plan for projects to be implemented over the short- and long-term, an update to the Plan is needed, and

WHEREAS, following the City's standard RFP process, a three (3) member panel determined that Alta Planning and Design of Berkeley, California was the most qualified firm to complete this project, due to their experience in non-motorized transportation planning, and

WHEREAS, Alta Planning and Design has agreed to provide the services outlined in **Exhibit "A"** attached hereto and incorporated herein by reference at a cost not to exceed \$77,320.00, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to award a contract to Alta Planning and Design for professional services to update the Modesto Non-Motorized Transportation Master Plan, at a cost not to exceed \$77,320.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of a contract to Alta Planning and Design for professional services to update the Modesto Non-Motorized Transportation Master Plan, at a cost not to exceed \$77,320.00.

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 February 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT A: WORK PLAN AND BUDGET

The Alta Planning + Design Team offers the best combination of local, state, and national knowledge and understanding of non-motorized planning, design, and implementation. We will employ our experience in tailoring a Non-Motorized Transportation Master Plan Update for the City of Modesto that will support the increased use of bicycles for commuting and recreation, enhance the environment for pedestrians, and improve safety for all non-motorized users. The Alta team will develop an updated plan that is innovative, progressive, and responsive to the desires of the community. The proposed Project Schedule is provided following the Work Plan.

TASK 1: ORGANIZATION AND SCOPING MEETING

Alta team members will attend a kick-off meeting with the project manager and key City staff to:

- Review the project purpose and intent;
- Review scope of services and work plan approach;
- Gather or identify available background data and documents;
- Establish consultant team meeting, public outreach, and presentation schedule;
- Establish communication channels with other City departments and stakeholders;
- Review and list State and Federal required elements; and
- Review and list applicable design and planning standards.

Changes to the Scope of Work will be made (if necessary) at the conclusion of this effort, and an amended Scope of Work and schedule will be prepared. Initial contacts will be made with other appropriate agencies and groups including:

- Community Development Department and Engineering and Transportation Department staff
- School district representatives
- Local advocacy groups
- Caltrans
- Stanislaus County
- Others (as agreed upon during scoping meeting)

The purpose of these contacts will be to explain the goals and objectives of the Plan Update, identify and collect resources such as plans and maps, listen to each group's interests and concerns, and develop channels for future communication.

Task 1 Deliverable:

One Kick-off Staff Meeting
Final Detailed Scope and Schedule

TASK 2: TECHNICAL ADVISORY COMMITTEE

Alta will work with the City's Technical Advisory Committee (TAC) for the Plan Update, consisting of City staff, representatives from other affected agencies or organizations (e.g. Modesto Irrigation District), and representatives from local trail and bicycling advocacy groups. The TAC will be active throughout the Update process in providing input and feedback on recommended improvements, and will review and comment on major work products as they are produced by Alta.

Task 2 Deliverable:

Preparation of materials for and attendance at TAC Meetings (assume four (4) TAC meetings over the course of the project)

TASK 3: REVIEW EXISTING PLAN AND ASSESS CURRENT NON-MOTORIZED TRANSPORTATION NEEDS

The Alta team will review the 1996 Modesto Non-Motorized Transportation Master Plan in context of the City's current non-motorized transportation needs. Alta will update existing conditions and background information, review the status of projects recommended in the 1996 Plan, and evaluate the Master Plan in relation to the City's General Plan and other policy documents. The Alta team will conduct field observations to assess the adequacy of existing conditions for non-motorized transportation, analyze accident and traffic data, and prepare updated bicycle use projections. Following this review, we will prepare a report of our findings, including updated background information, to City staff.

3.1. REVIEW PLAN GOALS

Alta will work with staff to review and amend (as needed) overall goals for the Plan Update building on the 1996 Plan goals.

3.2. UPDATE BACKGROUND DATA

The Alta Team will update existing conditions information, including development patterns in the City, existing commuting patterns and bicycle use (from 2000 Census data), major destinations, transit service, key opportunities and constraints, and major planned facilities.

3.3. POLICY CONTEXT

Alta will review the 1996 Master Plan as it relates to the Modesto General Plan to determine if existing City policies provide adequately for the development of non-motorized transportation facilities. We will identify any modifications needed, to either Master Plan policies or General Plan policies, to ensure consistency between the documents and to promote the development of roadway and trail facilities Modesto that effectively accommodate non-motorized users.

3.4. REVIEW EXISTING AND PROPOSED NON-MOTORIZED TRANSPORTATION NETWORK

The objective of this task is to review the existing citywide non-motorized transportation network to ensure that it connects to all major destinations, linkages, transit hubs, and neighborhoods via streets and trail

corridors that are comfortable and acceptable for all level of cyclists. We will determine the adequacy of the existing non-motorized transportation facilities for the following criteria:

- Safety;
- Connectivity;
- Completeness of network;
- Ability to serve work centers, shopping, residential areas, parks, schools, civic buildings, community centers, transit links, and other important destinations;
- Accessibility;
- Convenience; and
- Ability to serve the needs of different types of bicyclists, pedestrians, and other non-motorized users.

We will identify gaps in the system and areas of the city that are not well served. We will also identify the needs of the various users that are not well served. We will work with City staff and TAC members to develop a list of corridors and locations that merit greater attention to implementation.

3.5. TAC MEETING TO DISCUSS EXISTING NETWORK

A primary goal of the initial TAC meeting will be to obtain feedback on the functionality of the existing non-motorized network, to identify any problem areas, and begin to compile recommendations and suggestions for improvements to the system. TAC comments will be incorporated into the existing conditions report.

3.5. FIELD REVIEW AND EVALUATION OF EXISTING ROUTES

Alta will perform a **field review** of existing non-motorized transportation routes in Modesto. We will rely on City staff and TAC members to direct us to existing routes and other specific areas for detailed field review. Field investigations will be documented using field notes and digital photography. Alta will develop a photo and informational database of important field observations, documenting key features of the existing facilities, including roadway cross-sections, travel lane widths, type of bicycle facility, observed level of use, condition of facility, and key gaps or other obstacles.

3.6. ANALYZE ACCIDENT DATA

The Alta team will review available bicycle accident data compiled by the City for the last three years. We will look at the volume of accidents, their locations, and compare accidents on a per capita basis. Information derived from this analysis will be used to identify specific locations that require improvement, plus possible enhancements in motorist, bicyclist, and pedestrian awareness and educational programs.

3.7. ANALYZE TRAFFIC DATA

The Alta team will collect traffic count data from the City of Modesto and identify the level of service on existing bike routes at key study intersections as well as at the mid-block level. Traffic data will also be compiled for other key facilities as well. This data will be utilized during the development of network alternatives to determine the appropriateness of different types of non-motorized facilities on specific roadway segments or at specific crossing locations.

3.8. UPDATE BICYCLE USE PROJECTIONS

Alta will provide updated estimates of existing and projected numbers of bicyclists using our **Bicycle Demand Model**. Using this model, Alta will establish a baseline of bicycle commuting in Modesto, including: 1) employed adults; 2) school children; 3) college students; 4) bike transit users; and 5) persons making utilitarian (shopping) trips. This information will provide the most accurate estimate of existing bicycling possible. Alta will present all projections in a clear and organized format, readily understood by policy decision makers and funding agencies.

3.9. EXAMINE EXISTING PROGRAMS

The Alta team will gather information on existing bicycle/pedestrian education and marketing programs in Modesto. We will collect information regarding enforcement policies of the Modesto Police Department, and will analyze the adequacy and effectiveness of these programs, in compliance with Bicycle Transportation Account bicycle plan requirements.

3.10. REVIEW POLICIES, GUIDELINES AND EDUCATION PROGRAMS

Alta will review the policies, guidelines, and educational programs outlines in the 1996 Plan and identify any language that needs to be amended or supplemented as part of Task 5 (Draft Plan preparation).

Task 3 Deliverable:

Report of Findings on Existing Master Plan and Non-Motorized Transportation Needs

- Updated background information

- Assessment of existing/recommended routes

- Accident analysis

- Updated bicycle use projections

TASK 4: PUBLIC PARTICIPATION

The City of Modesto is committed to public input in the Non-Motorized Transportation Master Plan Update process. Therefore, it is of prime importance for this project to build consensus through a public involvement process. The public involvement process will give community members an opportunity to share their vision of a non-motorized plan for their city. As outlined in the RFP, there will be three (3) workshops set up for the general public. MIG will facilitate the first two public workshops, and Alta will lead the final workshop. Alta team members will be present at all workshops to assist with the presentation of technical information.

The community workshops will be structured to ensure clear understanding of the issues and opportunities associated with the project, the options available and their impacts, and preferred visions and strategies. Workshop formats will be fixed or flexible, as appropriate. Each workshop will be designed to meet identified goals, with activities including, but not limited to: informal presentations or progress reports, large or small group discussions, group brainstorming, individual or group feedback exercises, and prioritization or ranking of community preferences. Workshops can also be designed to accommodate multi-languages.

4.1. PRE-WORKSHOP PREPARATION AND PUBLICITY

MIG will work with City staff and the project team to identify and focus workshop objectives and design workshop processes and agendas accordingly. MIG will provide input for agendas and prepare comment sheets on which participants can record their ideas, concerns and suggestions.

To announce the workshop, MIG will design a workshop announcement flyer. This flyer can be mailed to residents or community groups by the City; can be posted by the City to its website; can be sent by the City or Alta by e-mail to existing bikers' clubs or organizations; and placed as an ad in the local newspaper by the City. The Alta team will provide one (1) camera-ready and one (1) electronic copy of the flyer to the City.

4.2. FIRST PUBLIC WORKSHOP

Project Introduction and Identification of Issues, Concerns, Opportunities and Vision. The purpose of the first workshop is to introduce the project to the community; explain the purpose and objectives for the project; and identify the community's issues, concerns, goals and visions for the project.

4.3. SECOND PUBLIC WORKSHOP

Presentation of Updated Plan. At the second workshop, the Alta team will present the major components of the proposed Non-Motorized Plan Update to the community for review and evaluation.

4.4. THIRD PUBLIC WORKSHOP

Final Plan Presentation. The third and final workshop will be held to present the final Plan to the community.

In order to ensure productive outcomes, each community workshop will involve the following subtasks:

WORKSHOP FACILITATION AND GRAPHIC RECORDING

MIG will facilitate and record each workshop using a key feature of all MIG meetings—"facilitation graphics," which combines the group leadership skills of a trained facilitator with the "language" of graphic notetaking. Particularly effective in large group settings, this technique encourages free thinking and the rapid generation of ideas. Participant comments and questions are recorded in text and graphics on wall-sized sheets of paper. These "wallgraphics" help to establish the group's memory of both the flow and content of discussions. This method of meeting facilitation encourages interaction and cooperative participation, and leads to group consensus because participants are able to visualize their ideas and build upon each other's comments. These wallgraphics will be photoreduced, summarized, and included as part of the workshop summary report.

POST-WORKSHOP REPORT

Based on the discussion at each workshop and the wallgraphic documentation, MIG will produce a summary report of the results of each workshop. One (1) camera-ready copy of the report, with one (1) camera-ready original of the wallgraphic reductions, will be provided to Alta staff for incorporation into the Plan document.

OTHER OUTREACH EFFORTS

As a part of our public outreach effort we will take advantage of local- and Central Valley-based experts such as the Great Valley Center and the Local Government Commission. These local nonprofit organizations have long-standing interest in transportation and community design. Through our professional contacts at these organizations we can obtain contact information to gather additional public input and support for the update of the City of Modesto Non-Motorized Transportation Plan. In addition to providing contact information, these organizations may be willing to assist in publicizing project meetings to their membership and provide local knowledge that will assist us in appropriately prioritizing projects for implementation.

Task 4 Deliverables:

Notification Flyers for all meetings
First Public Meeting (after review of Existing Plan)
Second Public Meeting (after development of Updated Network)
Final Public Meeting (after development of Final Preferred Plan)
Workshop Graphics and Post-Workshop Reports

TASK 5 DEVELOP UPDATED NETWORK

With the information collected during the existing plan review and needs assessment task, with input from the TAC, and with input from the First Public Meeting, Alta will hold a meeting with City staff and the TAC to outline the elements that require update, amendment, or expansion as part of the Non-Motorized Transportation Master Plan Update. Following this meeting, Alta expects to have a solid grasp of what the Updated Non-Motorized network will look like, and we will then move forward on developing detailed cross sections and other components of the Plan. We will strive to develop an Updated network and Plan that provides:

- **Connectivity** - provide connectivity between existing sidewalks, routes, lanes, or paths. Major gaps and barriers, including narrow roadway segments, should be targeted as high priority items.
- **Multi-Modal Coordination** - take advantage of multi-modal connections, including bus transfer stations and transit terminals and shuttles to major destinations.
- **Accessibility** - be accessible from residential neighborhood and connect to major destinations, including Modesto Junior College, downtown, parks, community centers, employment centers, schools, and commercial centers. Existing and future activity center maps will be used to identify any changes in the location of major destinations in the region, including transit centers, employment centers, entertainment venues, and other destinations.
- **Convenience** - provide reasonably direct routes from residential areas to major destinations.
- **Aesthetics** - both recreational and commuting users prefer to ride along streets and through areas that are shaded, have visual relief, or offer other visual amenities.
- **Usage** - serve the greatest number of commuters and recreational users possible, focusing on major destinations. Potential usage will be determined through field observation, surveys, and feedback from staff and the Steering Committee.
- **Safety** - provide the highest level of safety possible while mitigating major safety concerns such as narrow roadway segments. This will be determined through discussions with staff, field observations, and the accident analysis. We will also identify high vehicular traffic locations and present the opportunities and constraints associated with the proposed bike and pedestrian vis-à-vis general circulation.
- **Planned Roadway Improvement Projects** - take advantage of planned roadway improvements that may accommodate bicycle facilities with relatively little additional cost.

All proposed bikeway facilities will be described by the classification system developed by Caltrans in Chapter 1000: Planning and Design of Bicycle Facilities, by AASHTO in a “A Policy on Geometric Design,” and by the latest research conducted by FHWA on bikeway planning and design. The Caltrans classification system consists of the following categories:

- Bike Paths (Class I): bicycle or multi-use paths separate from roadways, with at-grade or grade-separated crossings
- Bike Lanes (Class II): striped bicycle lanes, typically on the right-hand side of roadways
- Bike Routes (Class III): roadways that provide adequate shoulder or curb lane width and signing, but no striping

For liability, funding, and other purposes, we propose to use this classification system for this study. Due to the differing needs of recreational/family cyclists and commuter cyclists, we will attempt to develop a network that provides a balanced network of on- and off-street facilities.

We will describe the classification of each of the recommended routes, their starting and ending points, as well as the destinations and neighborhoods they will serve. We will work with the City and TAC to develop creative identifiers for major routes, with possible features such as unique signage directing cyclists to key destinations in the city. We will propose typical cross-sections of each of the recommended on-street or off-street routes, including typical lane widths and restriping that would be needed. We will describe any paving, striping, signage, and other improvements needed to create each of the bikeways. We will also prepare a general cost estimate for each bikeway for discussion purposes with City staff and at the Second Public Workshop.

The Updated Modesto non-motorized transportation system will also be planned to link up to bikeways in the neighboring cities of Riverbank and Ceres, as well as neighboring unincorporated areas consistent with the Stanislaus County Regional Bicycle Action Plan.

Specific Components of the Update Plan will include:

5.1. IDENTIFY PROJECTS

With input from the First Public Meeting and TAC/City staff meetings, Alta will identify an Updated Non-Motorized Transportation Network. For the Updated Network, Alta will prepare a detailed spreadsheet listing the bicycle and pedestrian improvements and describing key characteristics of each proposed route. We will develop project sheets for the top priority projects drawing from the spreadsheet and cost estimates. As part of this process, we will work with the City and TAC to creatively identify routes to and from major destinations. Where possible, we will attempt to distinguish between commuter and recreational routes. Elements of such routes may include unique signage styles/logos, destination and mileage identifiers on signs, unique stencils, and designation on trail/bikeway maps. We expect to work closely with the City and TAC to refine these suggested concepts into a workable bikeway system for Modesto that will help to increase awareness of cycling, improve safety, and increase non-motorized trips.

5.2. ROUTE MAPPING

Proposed Updated Network routes will be identified on large-scale City maps for discussion purposes at TAC/staff and public meetings. These maps will be reduced for inclusion in the Draft Plan Update report,

and will form the basis of the Trail Map prepared in Task 7. We assume that the City will provide Alta street centerline files in GIS or AutoCAD format for base mapping.

5.3. CROSS SECTIONS

We will prepare detailed cross-sections for typical segments of major unique projects identified in the Updated Plan. These cross sections will provide a template for the future development of project segments, and will show right of way, setbacks, trail/bikeway width, roadway lane/parking widths for on-street segments, landscaping, fencing, and other amenities. Cross sections will be produced to-scale to allow for use in a variety of applications including discussion with engineering and other technical staff, enlargement for public meetings, and inclusion in the final Updated Plan document. Alta proposes to develop up to 30 unique cross-sections as part of this Work Plan. It is assumed that many on-street segments will be similar and can be identified by typical cross-sections for a particular roadway width/classification.

5.4. SIGNAGE

Alta understands that the City is currently working with a consultant to prepare a uniform trails signage package. Alta will conduct one (1) review of the proposed plan and make comments related to its functionality for non-motorized users. We will also recommend, if necessary, additional signage that may be beneficial to bicyclists, such as route identification, destination, or mileage.

5.5. SITE AMENITIES

Alta will describe the extent of existing support facilities and identify recommended improvements and standards. In addition to signage, support facilities for non-motorized transportation routes will include signal loop detectors, lighting, benches and drinking fountains, bicycle racks and lockers, and shower facilities. Support facilities will be inventoried for the system through available data and field observation. Support facilities will also be described and classified whenever possible. For example, the Bicycle Federation of America defines bike lockers as Class I, covered locking racks as Class II, and exposed racks as Class III.

5.6 CROSSING ENHANCEMENTS

As part of the Updated Network, the Alta team will develop specific recommendations to improve the environment for non-motorized users at intersections and other roadway crossings. We will propose specific improvements and prepared detailed project sheets for the highest priority locations. Recommendations may include such crossing enhancements as:

- New or enhanced crosswalks
- Refuge islands
- New signals
- Improved signage or pavement markings
- Curb extensions
- In-pavement flashing markers
- Countdown signals
- Wider sidewalks
- ADA ramps or improvements to existing ramps

5.7. TRAFFIC CALMING

The non-motorized transportation environment can often be enhanced with various traffic calming techniques. For the Preferred Network, the Alta team will recommend traffic calming measures if and where they appear to be appropriate. Before preparing such recommendations, we will consult with the City to

identify the types of situations and the types of traffic calming devices that are most applicable. The Alta team has extensive experience in the development and application of traffic calming tools and techniques. The “toolbox” of traffic calming measures that may be applied in Modesto may include: curb extensions; chicanes; chokers; medians; traffic circles and roundabouts; raised crosswalks; speed humps; staggered parking; forced-turn islands; traffic diverters; or street closures. Any recommended traffic calming measures will be identified as part of the recommended network, and will be included in cost estimates for specific segments.

5.8. MAINTENANCE PROGRAM

Alta will include in the Draft Plan a detailed maintenance standards for both on- and off-street bikeways. Alta has considerable experience developing bikeway and trail maintenance programs in cooperation with a broad range of agencies. We can draw from this experience to provide the City with standard maintenance procedures and agreements that will enable greater ease of implementation when working jointly with other local jurisdictions (e.g. Modesto Irrigation District). Specific maintenance cost mechanisms (such as Adopt-a-Trail) will be discussed in Task 5.10, Financial Plan.

5.9. CONSTRUCTION AND MAINTENANCE COST ESTIMATES

Alta will prepare cost estimates using a spreadsheet developed for this project listing detailed information on each proposed segment length, corridor conditions, and other information. The costs will be separated out between land cost (if any), site preparation, planning, design and engineering costs, construction costs, and environmental documentation/mitigation costs (if any). Alta will use the latest unit costs experienced by the Modesto Parks, Recreation and Neighborhoods Department.

Each segment will also be evaluated according to an estimated cost-per-mile and estimated on-going maintenance and operation costs by implementation phase based on comparable experiences. Departmental responsibility will also be identified, as will the relationship to possible funding and other specific requirements.

5.10. IMPLEMENTATION AND FINANCE MECHANISMS

RANKING OF IMPROVEMENTS

The recommended programs and improvements will be ranked according to general planning criteria and submitted to the TAC for review and comment. A decision matrix will be used to attach weights to each criterion and determine which recommendations meet the highest number of criteria listed. These criteria will consist of those listed below and others developed with staff.

- | | |
|--|---|
| a. Closure of critical gap or correction of a bottleneck in existing system; | f. Cost effectiveness; |
| b. Improvement or program that serves an immediate safety need; | g. Projected reduction in vehicle trips and vehicle miles traveled; |
| c. Segment which will attract high usage; | h. Integration into the existing regional bikeway system; |
| d. Current availability and/or suitability of right of way; | i. Interface with other modes; and |
| e. Service to a previously neglected part of Modesto; | j. Local political and community support. |

The recommended programs and improvements will next be evaluated according to very specific criteria listed in funding sources such as TEA-21 and TDA Article 3 bulletins. Each source requires a different type of project and documentation of impacts and benefits. Because of this, the selected routes or improvements will be developed in sufficient detail to qualify for the most stringent program requirements. Other criteria to be applied from TEA-21 includes an emphasis on commuter routes, coordination with adjoining community bikeways, coordination with other modes (transit), a completed and adopted bikeway plan, compatibility with the Regional Transportation Plan, use of multiple sources for funding, and meeting Chapter 1000 guidelines of the Caltrans Highway Design Manual. Our team will work closely with the staff and TAC throughout the selection and ranking process, lending expertise on funding, planning, and design guidelines when required.

PHASING

A Phasing Plan will be developed based on the ranking outcome combined with (a) funding availability and requirements, (b) other programmed transportation improvements, (c) eliminating an immediate bottleneck or safety hazard, and (d) ensuring that the system grows rationally rather than as a series of disconnected pieces over time. The Phasing Plan will recommend a ranking (short-term, immediate-term, and long-term) to complete a system over the next 10 to 20 years.

FUNDING REQUIREMENTS

Alta will identify potential matching and major funding sources, compile criteria and requirements, assist with completing applications, design this study to serve as an appendix to the funding application, and relate the anticipated schedule of funding to the prioritized list of segments. Costs of the phased improvements will be compared with funding needs, so that long term programming for local matching funds can be accomplished. We will recommend all appropriate funding options, which may include:

- a. Local public works and parks and recreation Capital Improvement Project budgets
- b. State agencies (Bike Transportation Account and Transportation Development Act Article 3)
- c. Federal government -TEA-21 (composed of eight separate funding sources)
- d. Non-profit organizations
- e. Corporate sponsors
- f. Zoning requirements
- g. Development fees
- h. Air quality grants

FINANCIAL PLAN

Based on the recommended phasing schedule, findings of regional significance, cost information, and funding opportunities, we will produce a final Priority List and 20-year Financial Plan that clearly identifies the funding requirements by year for the life of the plan. This will include estimates of operating and maintenance costs that are usually borne by local governments.

Funding for on-going operational and maintenance costs is often a key concern related to trail development. Alta will outline a variety of programs that could potentially be used to fund on-going trail maintenance, ranging from the formation of community assessment districts to private sponsorship efforts such as Adopt-a-Trail programs.

Alta will also compile past expenditures on bicycle facilities and programs by the City of Modesto for use in future Bike Transportation Account applications.

5.11. UPDATED POLICIES, GUIDELINES AND EDUCATION

The Policies, Guidelines and Education element of the Plan Update will draw on Chapter VI of the existing Master Plan, consisting of policies, facility guidelines, and educational programs to support the non-motorized transportation in Modesto. We will update and amend the existing Policies section as appropriate. The Alta team can draw from our extensive work with many experienced public sector planning and engineering professionals to identify policies, guidelines, and programs appropriate for application in Modesto. Some key types of policies and programs may include traffic calming standards; pedestrian/bicyclist awareness campaigns; bicycle education; or safety enforcement.

5.12. PREPARE DRAFT PLAN

Alta will prepare up to one (1) photo-ready reproducible black-and-white copy, one (1) PDF format electronic copy, and one (1) color copy with graphics and large-scale maps of the Draft Non-Motorized Transportation Master Plan Update for City review. The document will include:

- a. Title page
- b. Table of contents
- c. Executive summary
- d. Intent and Requirements of Proposed Improvements
- e. Relationship to 1996 Master Plan
- f. Summary of Changes to 1996 Master Plan
- g. Existing Conditions
- h. Updated Non-Motorized Transportation Network (short-, intermediate-, and long-term)
- i. Updated Policies, Guidelines and Education
- j. List of tables, figures, and appendices
- k. List of references and bibliography
- l. Technical appendices

The Plan Update report will also include maps and graphics that depict facility improvements ranging from bikeways and bicycle parking to intersection improvements and signage. The Non-Motorized Transportation Plan Update plan will be prepared according to all requirements of California Streets and Highways Code 891.2 to enable the City to apply for Bicycle Transportation Account funds, as well as other transportation funds.

Following preparation of the Plan Update Report, Alta will hold a meeting with City staff and the TAC to outline key elements of the Draft Plan, including the network components, phasing recommendations and cost estimates.

Task 5 Deliverables:

TAC/Staff Meeting to Discuss Data collected during Task 1 and First Public Meeting Input
Updated Network

- Large-scale color map illustrating the proposed Updated Network
- Text descriptions of major recommended routes
- Cross sections for major unique routes
- General cost estimates

Draft Non-Motorized Transportation Master Plan Update, including all elements listed above and large-scale map of Updated Network for Second Public Meeting.

TAC/Staff Meeting to present Updated Network, Phasing Recommendations, and Cost Estimates (prior to Second Public Meeting)

TASK 6: ENVIRONMENTAL REVIEW

Alta will review the Initial Study and Negative Declaration for the 1996 Non-Motorized Transportation Master Plan. A new CEQA Initial Study checklist will be prepared for the Plan Update. Written explanations will be prepared for each environmental issue area, drawing on baseline information from the City of Modesto Master EIR where appropriate. Following completion of the Checklist, a recommendation as to the appropriate level of CEQA/NEPA environmental clearance for the Plan Update will be given (e.g. Negative Declaration, MND, EIR). Alta will note whether any additional technical study is required in order to make a conclusion about the environmental impacts of the Plan Update. Alta will prepare one (1) photo-ready copy and one electronic copy of the Initial Study checklist to City staff.

Task 6 Deliverable:

Initial Study Checklist and recommendation for further CEQA/NEPA documentation

TASK 7: TRAIL MAP/BROCHURE

Following finalization of the Preferred Network, the Alta team will write a press release for distribution to the local media announcing the updated non-motorized plan and the availability of the new bike routes brochure. The City will distribute the press release.

Based on the Preferred Network, we will design and produce a brochure/map featuring the non-motorized transportation routes and trails in the City of Modesto. The brochure will be approximately 20 X 24 inches, and fold down into approximately 3 1/2 X 8 inches. This user-friendly, "slim jim" size fits easily into existing display racks, backpacks and pockets. The map will be color coded to feature bike lanes, off-street bike paths and trails, and recommended rides. The reverse side of the map will feature descriptions of the lanes, trails and rides as well as safety tips, information about how to use bikes on transit, and additional resources for cyclists and pedestrians.

Task 7 Deliverable:

Press Release to Notify Residents of Plan and Map Availability

Draft Trail Map/Brochure

TASK 8: FINAL PLAN AND PUBLIC HEARING

Alta will respond to City comments on the Draft Master Plan Update, brochure and Trail Map. We will prepare one (1) color copy of the Final Plan including fold-out maps, cross sections, and other design renderings, one (1) black-and-white reproducible copy, and one (1) PDF format electronic file on CD. For the Trails Map, we will make final corrections and changes, prepare the brochure for printing, and present one (1) original copy, one (1) electronic file, and GIS and AutoCAD files as appropriate.

Following completion of the Final Non-Motorized Transportation Plan Update and Trails Map, Alta staff will present a summary of the document and map to the Modesto City Council at a public hearing.

Task 8 Deliverables:

Final Non-Motorized Transportation Plan Update

Final Trail Map/Brochure

City Council Hearing

Meeting of Safety and Communities Committee

Meeting of Economic Development Committee

TASK 9: OPTIONAL WORK - PREPARE GRANT APPLICATIONS

As an optional task (not included in the proposed budget), Alta can prepare two applications for funding bicycle and/or pedestrian projects. Approximately two-thirds of Alta's applications have been successful in receiving funding. The work would include following all of the guidelines to fill out the application forms, including cost estimates, maps, and diagrams as needed. Prior to preparing these applications, Alta will advise the City as to the type of projects that are likely to be funded by specific funding sources.

Modesto Non-Motorized Transportation Master Plan Update

Budget - Alta Planning + Design Team

Hours Breakdown by Task

TOTAL
HRS BY
TASK

BUDGET BY
TASK

Task	SubTask	Staff Position Hourly Rate	ALTA PLANNING + DESIGN				MIG			CALLANDER			TOTAL HRS BY TASK	BUDGET BY TASK
			M Jones PIC \$130	B Handorp PM \$65	I Moore Planner/Designer \$65	D Pans Engineer \$135	L Hoxer Facilitator \$115	V Sood Facilitator \$75	E Carahn Graphic/Layout \$115	C DeFuser Writer/Editor \$150	P Callander Principal \$160	B Fletcher Landscape Archt \$120		
Task 1: Organization and Scoping				8	6								14	\$910
Task 2: Technical Advisory Committee														
	TAC Meeting #1		6	8									14	\$1,300
	TAC Meeting #2		6	8	6								20	\$1,690
	TAC Meeting #3		6	8	6								20	\$1,690
	TAC Meeting #4		6	8	6								20	\$1,690
Task 3: Review Existing Plan and Current Needs														
	3.1. Review Plan Goals			4									4	\$260
	3.2. Update Background Data			8	8								16	\$1,040
	3.3. Policy Context			6									6	\$390
	3.4. Review Existing Network		2	8	8								18	\$1,300
	3.5. Field Review			20	20								40	\$2,600
	3.6. Accident Data			8		4							12	\$1,060
	3.7. Traffic Data			8		4							12	\$1,060
	3.8. Update Projections			4	6								10	\$650
	3.9. Existing Programs			8									8	\$520
	3.10. Policies, Guidelines, Education			6									6	\$390
	3.11. Report of Findings		2	10									12	\$910
Task 4: Public Participation														
	4.1. Notification			2				10					12	\$880
	4.2. First Public Workshop			8	6		10	12					36	\$2,960
	4.3. Second Public Workshop			8	6		10	12					36	\$2,960
	4.4. Third Public Workshop			10	8								18	\$1,170
Task 5: Preferred Network and Draft Plan														
	5.1. Identify Projects		2	25	16	2							45	\$3,195
	5.2. Mapping and Route Descriptions			16	16								32	\$2,080
	5.3. Cross Sections		4	46	90					2	14		156	\$11,360
	5.4. Signage		2	10	4								16	\$1,170
	5.5. Site Amenities			2	8								10	\$650
	5.6. Crossing Enhancements			6	12	4				2	14		38	\$3,710
	5.7. Traffic Calming			2	10	4					6		22	\$2,040
	5.8. Maintenance Program			10	18								28	\$1,820
	5.9. Cost Estimates			2	10								12	\$780
	5.10. Implementation and Finance			12	12								24	\$1,560
	5.11. Policies, Guidelines and Education		2	10		2							14	\$1,180
	5.12. Draft Plan		2	16	12							8	38	\$3,040
Task 6: Environmental Review														
	6.1. Initial Study Checklist		2	24									26	\$1,820
Task 7: Trail Map/Brochure														
	7.1. Draft Trail Map/Brochure		2	8	30			8	6				54	\$4,550
Task 8: Final Plan and Public Hearing														
	8.1. Prepare Final Plan		2	15	4								21	\$1,495
	8.2. Prepare Final Trail Map		2	2	12			4	2				22	\$1,930
	8.3. City Council Hearing			8	6								14	\$910
	8.4. Safety and Communities Committee Meeting		6	8									14	\$1,300
	8.5. Economic Development Committee Meeting		6	8									14	\$1,300
Total Hours			60	388	346	20	20	34	12	8	4	42		\$71,320
Total by Staff			\$7,800	\$25,220	\$22,490	\$2,700	\$2,300	\$2,550	\$1,380	\$1,200	\$640	\$5,040		

Labor Total \$71,320

Direct Expenses/Reimbursables \$1,000

TOTAL BUDGET \$72,320

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-94**

**A RESOLUTION ACCEPTING THE PARKS, RECREATION AND
NEIGHBORHOODS DEPARTMENT FUND DEVELOPMENT PROGRESS
REPORT FOR 2002.**

WHEREAS, in recent years the City of Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for services and the prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, in an effort to be proactive in securing future funding for its parks, programs and facilities, created a dedicated fund development function, and

WHEREAS, this action included hiring a Fund Development Specialist responsible for securing grant funding and increasing co-sponsorships and donations, and forming a Fund Development Team, and

WHEREAS, in the one year since the fund development function was established, co-sponsorships and grant awards increased, alternate funding sources were identified, and a proposed Strategic Funding Plan was developed, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department submits for acceptance a Fund Development Progress Report for the year 2002, which outlines the department fund development efforts and achievements during FY 2002-2003, and

WHEREAS, at its meeting on February 3, 2003, the Safety and Communities Committee supported acceptance of the Fund Development Report for 2002,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Parks, Recreation and Neighborhoods Fund Development Progress Report for 2002, 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 25th day of February of 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

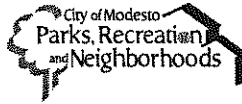
NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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



Fund Development Progress Report

Background:

In recent years, the Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for facilities and services and a decrease in funding for those facilities and services. Parks and recreation systems all over the country are facing the same challenges and others, including:

- Competition for scarce resources
- State and local budget shortfalls
- Dwindling alternate funding sources
- National focus on funding for public safety

Noting these trends nationally and locally, Modesto Parks, Recreation and Neighborhoods was determined to take these proactive steps in securing the future of its programs and reducing dependence on the General Fund:

- Increase co-sponsorship efforts
- Increase number of grant submissions
- Dedicate a "fund development" function

The department also created a new position dedicated to fund development. It is a one-year provisional position designated as an Administrative Analyst I, with the functional title: Fund Development Specialist. It was anticipated that the new position would be responsible to secure grant funding, as well as to increase co-sponsorships and donations from local businesses, organizations, community groups and individuals.

It was anticipated that the position would be "fiscally neutral" to the General Fund, securing enough new funding for existing programs and service credit off-sets to fully fund continuation of the position.

In addition, the Fund Development Specialist has explored alternative funding sources and best practices of other agencies. These studies have led to recommendations for staff training and development of new funding strategies.

This report outlines the fund development efforts and achievements of the Parks, Recreation and Neighborhoods Department over the last 12 months. It also contains brief discussions regarding future fund development activities.

Prepared by: Debbie Carlson-Gould
 Fund Development Specialist
 Parks, Recreation and Neighborhoods Department

1. Grant Seeking and Grant Writing.

Since February 2002, applications for the following grants have been submitted:

Parks, Recreation and Neighborhoods Grant Seeking 2002

	Source	Project	Amount Requested	Amount Awarded
1.	American Rivers-NOAA	Removal of Dennet Dam	\$50,000	Notification pending
2.	Caltrans Bicycle Transportation Account (December 2002)	VA Corridor Phases I and III	\$1,195,000	Notification pending
3.	Caltrans Bicycle Transportation Account (June 2002)	VA Corridor Phases I and III	\$3,200,000	\$0
4.	Caltrans Community Based Transportation Planning Grant	Campus Connection Feasibility Study	\$109,200	Notification pending
5.	Great Valley Center LEGACI Grant	Neighborhood Nature Experience (Summer Park Program)	\$9,000	\$0
6.	Habitat Conservation Fund	Removal of Dennet Dam from Tuolumne River	\$200,000	Notification pending
7.	Land and Water Conservation Fund	Creekwood Park Picnic Shelter and other site amenities	\$37,750	\$36,531
8.	Children and Families Commission funded by Prop 10	Sharp Park Playground Equipment	\$20,000	\$20,000
9.	Prop 12 Per Capita	Graceada and Beyer Park Pavilions	\$197,000	\$197,000
10.	Prop 12 Per Capita	Orville Wright Park Development	\$932,000	\$932,000
11.	Public Health Institute/California Healthy Cities Technical Assistance Grant	Bicycle Safety	\$18,000	\$18,000
12.	Recreational Trails Program	TRRP Non-motorized trail system	\$200,000	Notification pending
13.	Riparian and Riverine Habitat Grant	TRRP	\$400,000	\$0
14.	Riparian and Riverine Habitat Grant	Peggy Mensinger Trail Enhancements	\$41,411	\$0
Totals			\$6,609,361	\$1,203,531

Upcoming Grant Opportunities in 2003 Government Sources

- **Proposition 40**

On March 5, 2002, voters passed Proposition 40, the \$2.6 billion "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002" (2002 Resources Bond). The passage of Proposition 40 provided funds for local assistance grants.

We expect the state to allocate \$1.5 million in funding to the City of Modesto through the Per Capita Grant Program in FY 2003-2004. Modesto will also be eligible to compete for additional Prop 40 funds through the Murray Hayden Urban Youth Services Grant Program and AB 1481, Frommer - Urban Park Act of 2001 Grant Program.

- **Land and Water Conservation Fund (Competitive Grants)**

Applications for funding through this source have been successful in the past. We plan to submit a request in May 2003 for a picnic shelter in Orville Wright Neighborhood Park.

- **Caltrans- various (Competitive Grants)**

We are positioned to apply for Safe Routes to Schools and various non-motorized transportation funding.

- **Habitat Conservation Fund (Competitive Grant)**

- **Recreational Trails Program (Competitive Grant; pending federal reauthorization)**

Other Sources

- **Great Valley Center-LEGACI Grant (Competitive Grants)**

- **Tony Hawke Foundation (Competitive Grants)**

- **Tiger Woods Foundation (Competitive Grants)**

2. Sponsorships/Co-Sponsorships

Over the last five years the amount of support from sponsorships and co-sponsorships has varied widely. Total values from cash and in-kind donations have averaged \$66,000. The number of donating groups has varied from twenty-eight to fifty-eight groups. (Note: reporting has not been consistent department-wide.)

In fiscal year 2003 to date, the department has secured over \$107,000 in donations and co-sponsorships.

3. Legislative Requests

Virginia Corridor Rails-to-Trails Project

\$13.7 million – TEA-21 Funding

\$1 million – Transportation and Community System Preservation Program

\$14.5 million – Legislative Request, Sponsor: Congressman Dennis Cardoza

\$2 million – Legislative Request, Sponsor: Senator Barbara Boxer

Partnership for Healthy Youth
(Citywide Junior High campus lunchtime recreation and education programs)
\$100,000 – Legislative Request, Sponsor: Congressman Dennis Cardoza
\$100,000 – Labor, Health & Human Services Appropriations Bill

Tuolumne River Regional Park Trail Development
\$1,015,060 – TEA-21 Funding

Class I Trailhead Peggy Mensinger Trail and Dry Creek Regional Park
\$3.5 million – TEA-21 Funding

4. Other Significant Funding Sources

McHenry Mansion Foundation
\$48,750 – for improvements and furnishings at the McHenry Mansion

McHenry Museum Guild
\$5,000 – for improvements to the McHenry Museum

Soft Drink Vending Machines
\$25,000-\$30,000 per year

Cell Tower Agreements
\$194,000 per year

5. Strategic Fund Development Plan

In order to fully grasp the funding needs and activities of the department, the Fund Development Specialist conducted research and interviewed Parks, Recreation and Neighborhoods staff regarding budgets, current funding sources, types of projects, and goals. She met with local fundraising professionals to discuss local strategies and best practices, and conducted interviews and research of other municipalities and park districts regarding the most lucrative fund development practices of these agencies.

Key areas studied:

- Government grant sources
- Private and corporate grant sources
- Traditional fundraising activities, e.g. annual campaigns, special events, etc.
- Municipal marketing/corporate sponsorship
- Naming rights
- Fees and Charges
- Cause-related marketing
- Formation of non-profit park foundation
- Endowments
- Other private sector sources, e.g. Adopt-A-Trail, advertising, event sponsorship

Based on findings from these studies, and analysis of department resources, it became apparent that to make best use of fund development efforts, to maximize return on investment of staff time and other resources, a set of comprehensive fund development

strategies and practices would be needed. (See *Fund Development Strategies and Actions* and *Fund Development Policy Considerations*.)

6. Fund Development Team

In July 2002, a Fund Development Advisory Team was formed. In a collaborative forum, led by Fund Development Specialist, the team is responsible for addressing key topics related to fund development. The team format benefits the department through the pooling of knowledge, and by streamlining and coordinating the donation and sponsorship seeking processes.

The team has developed three important documents:

- Project Funding Needs Report ("master list" to aid in strategic fundraising efforts)
- Event Sponsorship Guidelines (with recommended staff training)
- Donor/Sponsorship Recognition Guidelines

Future functions of the team include:

- Centralize/ coordinate all solicitations and recognition
- Develop solicitation materials
- Continually identify potential new funding sources and sponsors
- Recommend funding strategies and sources to fully realize funding potential

7. Staff Development

This section outlines staff development (continuing education) activities in various fund development topic areas.

Fund Development Specialist Training

- *Securing Your Organization's Future: Strategic Fundraising*
- *Selling More Sponsorship*
- Association of Fundraising Professionals - membership

Other Staff Training

- *Fund Development Overview* for all full time staff at Bi-Annual Staff Meeting (presented by Fund Development Specialist)
- *Private Sector Support*, including independent park foundations and endowments, for key management and program staff (presented by Bill Koegler, Oglebay Foundation)
- *Municipal Marketing* presentation for PRN Executive Team (presented by Pat Saign, Public Enterprise Group)
- *Maximize Event Sponsorship* for key program staff (planned for February 2003)

Through formal and informal means, Fund Development Specialist continues to emphasize to staff and management the importance of incorporating fund development strategies as major components in project and program planning.

8. Modular DVD/Video Presentation

Fund Development Specialist is coordinating the production of a new fundraising tool. This state-of-the-art DVD/video presentation will allow PRN division and activity-specific segments of the DVD/video to be viewed individually or to be combined with other segments for a fully customized presentation. This format is preferred because the user needs only one disk to prepare and present a variety of customized presentations

suited to the needs of the presenter and audience. It also eliminates the need for multiple videotapes or power point presentations.

Use of this cutting edge technology will effectively promote the Parks, Recreation and Neighborhoods Department's activities to a variety of audiences, as well as reflect the creative and innovative spirit of the department.

Potential audiences:

- Service clubs and community groups (Rotary, Soroptomists, Omega Nu, etc.)
- Corporate/Private Foundation Boards of Directors
- Government grant program officers
- Estate planner associations
- Potential "Friends" groups
- Corporate sponsor/partner prospects (municipal marketing, naming rights, etc.)

In addition to serving as an exciting fundraising tool, this DVD/video presentation may also play an important role in the following areas:

Public Relations

- Schools
- Churches
- Service groups
- Community non-profit groups
- Modesto Public Access Channel
- Tradeshow exhibits
- Professional Conferences
- Park design workshops

Marketing

- Community and Economic Development
- Modesto Centre Plaza
- Convention and Visitors Bureau
- Golf Modesto
- John Thurman Field alternative events
- Neighborhood Services

Internal Uses

- Recruiting
- New employee orientation
 - City-wide staff
 - Parks, Recreation and Neighborhoods staff
- New Council Member orientation

9. Future Fund Development Functions

It is anticipated that current fund development efforts will be continued. However, discussion of new fund development strategies (*See Fund Development Policy Considerations*) should lead efforts in new directions.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-95**

A RESOLUTION ACCEPTING THE FUND DEVELOPMENT STRATEGIES AND ACTIONS AS RECOMMENDED BY THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT AND DIRECTING STAFF TO DEVELOP SPECIFIC FUNDING PLANS FOR CORPORATE SPONSORSHIPS/ MUNICIPAL MARKETING, NAMING RIGHTS, EXCLUSIVE VENDOR/OFFICIAL SUPPLIER AGREEMENTS AND FRIENDS OF PARKS FOUNDATION.

WHEREAS, in recent years the City of Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for services and the prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, in an effort to be proactive in securing future funding for its parks, programs and facilities, created a dedicated fund development function, and

WHEREAS, this action included hiring a Fund Development Specialist responsible for securing grant funding and increasing co-sponsorships and donations, and forming a Fund Development Team, and

WHEREAS, in the one year since the fund development function was established, proposed Fund Development Strategies and Actions were developed, and

WHEREAS, the Fund Development Strategies and Actions recommend that staff provide the City Council with a more specific plan in the areas of Corporate Sponsorship/ Municipal Marketing, Naming Rights, Exclusive Vendor/Official Supplier Agreements, and a Friends of Parks Foundation as these plans are developed, and

WHEREAS the Fund Development Strategies and Actions further recommend that staff pursue an Asset Inventory and Asset Valuation, and

WHEREAS, at its meeting held on February 3, 2003, the Safety and Communities Committee supported acceptance of the Fund Development Strategies and Actions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Parks, Recreation and Neighborhoods Department's Fund Development Strategies and Actions attached hereto as **Exhibit "A"** and incorporated herein by this reference.

BE IT FURTHER RESOLVED that staff is hereby directed to develop specific plans for Corporate Sponsorship/ Municipal Marketing, Naming Rights, Exclusive Vendor/Official Supplier Agreements, and a Friends of Parks Foundation and to provide the City Council with these plans as they are developed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February of 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

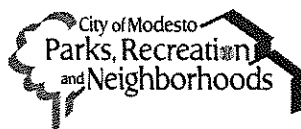
NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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



Fund Development Strategies and Actions

Staff has been investigating new revenue sources in order to enhance and expand services to the public while minimizing impact on the General Fund. Staff has conducted extensive research and, in some cases, program development for these fund development activities.

Based on this research, the following list was generated. It catalogs current revenue generating activities. It also lists potential future strategies and actions (indicated by the designation "New").

It should be noted that these strategies and actions would not and could not be implemented concurrently. The list is intended to illustrate all the means of fund development available to the Parks, Recreation and Neighborhoods Department.

Parks, Recreation and Neighborhoods Fund Development Strategies and Actions

I. Government Grant Programs

- A. California State Bond Acts
 - 1. Prop 12
 - a. Per Capita (non-competitive)
 - b. RZH (competitive and non-competitive)
 - c. Riparian and Riverine Habitat Program (competitive)
 - d. Non Motorized Trail Program (competitive)
 - e. Wildlife Conservation Board (competitive)
 - 2. Prop 40
 - a. Per Capita (non-competitive)
 - b. RZH (competitive and non-competitive)
 - c. Murray-Hayden Urban Youth Services (competitive)
 - d. AB1481, Frommer, Urban Park Act
- B. Other State Programs (competitive)
 - 1. Habitat Conservation Fund
 - 2. California Department of Transportation
 - a. Bicycle Transportation Account
 - b. Community Based Transportation Planning
 - c. Safe Routes to Schools
 - 3. Integrated Waste Management Board
- C. Federal Programs (competitive)
 - 1. TEA-21
 - a. Recreational Trails Program
 - 2. Land and Water Conservation Fund

II. Local foundation support/partnerships

- A. Current
 - 1. McHenry Mansion Foundation
 - 2. McHenry Museum and Historical Society
 - 3. Greater Modesto Tree Foundation
 - 4. Friends of Virginia Corridor
 - 5. Del Rio Foundaton/1st Tee Program
- B. Potential
 - 1. Stanislaus Community Foundation
 - 2. Great Valley Center
 - 3. Bright Family Foundation
 - 4. Gallo
 - 5. Mary Stewart Rogers Foundation
 - 6. Central California Art League

III. (New) Private/ Corporate Foundation Grants

- A. David and Lucille Packard Foundation
- B. The California Endowment
- C. Walter Hoss Foundation
- D. California Wellness Foundation
- E. Others...

IV. Current Fees and Other Charges

- A. Facility rental fees
 - 1. Park reservations/picnic areas
 - 2. Sports field reservations
 - 3. Building/hall rentals
 - 4. Equipment
- B. Recreation Fees
 - 1. Class registrations
 - 2. Parties
 - 3. Special event assistance
- C. Leases and Other Agreements
 - 1. Modesto City Schools (Tennis court maintenance)
 - 2. Cellular Phone Transmitter Towers
 - 3. John Thurman Field
 - 4. Salary reimbursement agreement (Museum and Mansion gift stores)
 - 5. Adult sports league fees
- D. Commercial landscape review fees
- E. Golf
 - 1. Green fees
 - 2. Concessions
- F. Modesto Centre Plaza facility rentals
- G. Compliance order fines (NPU)
- H. Interfund labor charges

- V. *(New)* Vendor fees
 - 1. Re-evaluate curbside vendor permits
 - 2. Exclusive park system concession rights
 - 3. Exclusive event/program concession rights

VI. **Other Private Sector Sources**

- A. Park Partners
- B. Service Clubs
- C. *(New)* Municipal Marketing/Corporate Sponsorship
- D. *(New)* Adopt-A-Trail/Adopt-A-Park
 - 1. Trail sections
 - 2. Amenities
 - a. Benches
 - b. Playgrounds
 - c. Trailside interpretive signage
 - d. Rest areas
 - e. Kiosks
- E. *(New)* Exclusive "Official Supplier" agreements
 - 1. Soft drinks
 - 2. Vehicles
 - 3. Equipment, etc
- F. *(New)* Naming rights
 - 1. Potential facilities
 - a. New parks
 - b. New facilities
 - c. Modesto Centre Plaza
 - d. Golf Courses
 - e. Community Centers
 - 1) New West Side Community Center
 - f. Senior Center
 - g. McHenry Museum
 - h. McHenry Mansion
 - i. McClure Country Place
- G. *(New)* Signage
 - 1. Sports field scoreboards
 - 2. Backstops
 - 3. Concession areas
 - 4. Seats
 - 5. Fields and facilities (pools?)
 - 6. Special events
- H. *(New)* Advertising
 - 1. Activity Guide
 - 2. Facility Guide
 - 3. Golf score cards

4. Trail maps
 5. Vehicles and equipment
 - I. Program Sponsorship
 1. Children's park programs
 2. Senior Center programs
 3. Teen recreation programs
 4. Adaptive recreation programs
 5. Adult recreation
 6. Party!Mobile
 - J. Special Event Sponsorship
 1. Celebration of Lights Parade/Tree Lighting
 2. First Sundays!
 3. *(New)* Museum exhibits
 4. Friday Night Out
 5. Brown Bag Lunch Concerts
 6. More....see *Activity Guide*
 - K. *(New)* Cause-Related Marketing
 1. Neighborhood Preservation
 2. Water conservation
 3. Environmental protection
- VII. *(New)* "Friends of Parks" or Park Foundation**
(Vehicle for accepting gifts and establishing endowments)
- A. Fundraising Campaigns
 1. Annual campaign
 2. Major gift campaign
 3. Endowments
 4. Planned giving
- VIII. *(New)* Merchandise (fund development *plus* marketing!)**
- A. Apparel
 - B. Postcards
 - C. Calendars

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 96**

A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTHDAY IN THE PARK FESTIVAL, 2003!" 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, by Resolution No. 92-129, adopted March 24, 1992, 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 14th Annual "Earth Day in the Park" will be held on Saturday, April 12, 2003, at Graceada Park, and

WHEREAS, "Earth Day in the Park Festival, 2002!" drew 92 vendors and an estimated 15,000 residents, and

WHEREAS, because the CACOR is an advisory committee to the City Council, the group's ability to obtain event liability coverage is restricted, and City co-sponsorship of the event will allow provision of automatic coverage under the umbrella of the City's existing insurance policy, and

WHEREAS, the City's Risk Manager has assessed the scope of the event and determined it to be of minimal exposure to the City, and

WHEREAS, as in prior years' events, the Committee seeks Council approval for the sale of merchandise in the Park during the event, 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,

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, 2003!”, 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, 2003!” event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-97**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
JOHN DE LA MORA FROM THE HOUSING REHABILITATION LOAN
COMMITTEE, EFFECTIVE FEBRUARY 25, 2003**

WHEREAS, JOHN DE LA MORA was appointed a member of the Housing Rehabilitation Loan Committee on July 25, 2000; and

WHEREAS, JOHN DE LA MORA has tendered his resignation from the Housing Rehabilitation Loan Committee, effective February 25, 2003; and

WHEREAS, JOHN DE LA MORA 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 JOHN DE LA MORA 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 JOHN DE LA MORA 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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-98**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DONNA POLITE
FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 25, 2003**

WHEREAS, DONNA POLITE was appointed a member of the Community Qualities Forum on May 15, 2001; and

WHEREAS, DONNA POLITE has tendered his resignation from the Community Qualities Forum, effective February 25, 2003; and

WHEREAS, DONNA POLITE 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 DONNA POLITE from the Community Qualities Forum 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 DONNA POLITE 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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-99**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM
WETMORE FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 25,
2003**

WHEREAS, WILLIAM WETMORE was appointed a member of the Community Qualities Forum on May 13, 1997, and

WHEREAS, WILLIAM WETMORE has tendered his resignation from the Community Qualities Forum, effective February 25, 2003, and

WHEREAS, WILLIAM WETMORE 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 WETMORE from the Community Qualities Forum 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 WILLIAM WETMORE for his outstanding service to the community.

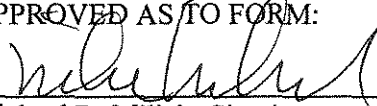
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-100**

A RESOLUTION ESTABLISHING THE MODESTO CONVENTION AND VISITORS BUREAU (CVB) AS AN INDEPENDENT, NON-PROFIT CORPORATION AND ADOPTING THE BYLAWS AND ARTICLES OF INCORPORATION FOR THE MODESTO CONVENTION AND VISITORS BUREAU AS AN INDEPENDENT, NON-PROFIT CORPORATION.

WHEREAS, on June 25, 2002, the City Council directed staff to develop bylaws, complete articles of incorporation and to apply for non-profit status for the Modesto Convention and Visitors Bureau (CVB), and

WHEREAS, bylaws have been developed, and

WHEREAS, the Articles of Incorporation have been filed with the State of California, and

WHEREAS, the CVB has received its 501c(6) corporate status and is awaiting its tax-exempt status, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to establish the Modesto Convention and Visitors Bureau as an independent, non-profit status and to adopt the bylaws and articles of incorporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby establishes the Modesto Convention and Visitors Bureau as an independent, non-profit status corporation.

BE IT FURTHER RESOLVED that the Council hereby adopts the bylaws and articles of incorporation, attached hereto as Exhibits "A" and "B", respectively, and incorporated herein, as the bylaws and articles of incorporation of the Modesto Convention and Visitors Bureau.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

BYLAWS OF
MODESTO CONVENTION AND VISITORS BUREAU
A California Nonprofit Public Benefit Corporation

ARTICLE I

NAME

The name of this corporation is **MODESTO CONVENTION AND VISITORS BUREAU**
(ABureau@)

ARTICLE II

PRINCIPAL OFFICE

The principal office of the organization for its transaction of business is located in
Modesto, California.

ARTICLE III

OBJECTIVE AND PURPOSE

Section 1. The corporation is organized as a nonprofit public benefit corporation under
Internal Revenue Code Section 501(c)(6) and California Revenue and Taxation Code Section
23701(e).

The objectives of the Bureau are as follows:

A. To attract visitors to the area by promoting and marketing Modesto as a
convention, sports, tourism, and leisure travel destination.

B. To provide coordination and leadership for the community and the visitor industry on matters relating to convention activity and tourism.

C. To gather community information designed to convey to opinion leaders and the public at large the status of the visitor industry.

D. To work with local governmental units, private enterprise and other interested parties to structure suitable financing plans for the Bureau, and to implement those plans.

Section 2. Limitation. The Bureau shall be nonprofit and nonpartisan and shall not participate in or lend its support to the election of any candidate for public office.

ARTICLE IV

MEMBERSHIP

Section 1) Members. The corporation shall have no members within the meaning of the Nonprofit Corporation Law.

Section 2) Associates. The Bureau may refer to persons or entities associated with it as Amembers@, even though such persons or entities are not voting members. The term and condition under which such persons or entities are referred to as Amember@ shall be determined by the board of directors.

ARTICLE V

DIRECTORS

Section 1. Number. The authorized number of directors of the Bureau shall be seven (7). Each member of the City Council shall appoint one member to the Board of Directors. In addition there shall be three (3) ex-officio, nonvoting members of the board as follows:

§ The Modesto Centre Plaza Manager

§ A Modesto City Councilmember appointed by the Mayor

§ The Chief Executive Officer. The CEO and/or staff shall be ex-officio members of all Board committees.

Section 2. Designated Directors. Seven (7) of the directors shall be designated, holding office for four (4) years, and at the pleasure of their appointing body and until a successor has been designated and qualified. [The designated directors shall appoint three (3) additional Aat large@ directors.] The term of each director shall be four (4) years. No person shall serve more than two (2) terms as a director. Board members are eligible for re-appointment to the Board after a two- (2) year absence.

Section 3. The term of office shall be effective as of the first of January.

Section 4. Serving any portion of an unexpired term shall not be counted as service of one term. Members not eligible for re-appointment may continue to serve until their successors are appointed and meet all of the qualifications outlined in Article V, Section 8 of these Bylaws. No member shall serve more than a maximum of eight (8) consecutive years.

Section 5. The terms of office for the Board will be set to coincide with the term of office of their respective appointing City Council member. Each member=s term shall terminate on December 31 of his or her respective year.

Section 6. The members of the Board shall receive no compensation for the performance of their official duties.

Section 7. Appointments to fill vacancies on the Board shall be handled in the same manner as original appointments. When a vacancy occurs during a term, the appointment to fill such vacancy shall be for the unexpired portion of the term.

Section 8. Qualifications. The board of directors should be representative of business interest groups throughout the City including, but not limited to, the following business categories: hotel, restaurant, entertainment, travel, sports, retail, public relations, advertising, and marketing.

Directors shall be chosen without discrimination on the basis of race, sex, sexual preference, color, religion, age, national origin, income, marital status or handicap. Directors are expected to be actively involved and shall serve on committees and task forces as appointed by the President and approved by the board.

Section 9. The members of the Committee shall reside or have business interests or employment within the city limits of the City of Modesto at the time of appointment and must maintain residence/business interest/employment within the City at all times during their service on the Committee.

Section 10. Vacancies on Board. A vacancy on the board shall exist on the occurrence of the following:

- A. **Resignation.** The resignation or death of any director;
- B. **Designated Seats.** The declaration by a designating agency that the designation has been terminated;
- C. **Attendance.** Unexcused absence from three (3) consecutive regular meetings in any twelve (12) month period shall result in the position being vacated. Excused absences shall

include illness, medical reasons, work related conflicts, and jury duty which shall be authorized provided that notification is given to the executive director or appropriate staff by telephone, facsimile, mail or e-mail at least 48 hours prior to such absence. In addition, attendance shall be recorded in the minutes of monthly meetings and such minutes shall be transmitted to the board of directors monthly.

D. Termination. A designated director who is also an elected official is no longer in office or unable to perform his or her public duty with the designating public agency;

E. Qualifications. The director no longer meets the qualifications set forth in these bylaws; or

F. Expulsion. The expulsion of any director upon a 2/3 majority vote of the board of directors.

An appointee of the majority of the directors shall fill any non-designated director vacancies occurring on the board of directors, by reason of any of the above-listed events. Such director, so appointed, shall hold office until expiration of the board term of the vacating officer.

Section 11. Powers.

A. Board Direction. Subject to the provisions and limitation of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, the corporation=s activities and affairs shall be managed, and all corporate power shall be exercised, by or under the board=s direction.

B. Appointments. The directors shall have the specific power to appoint and remove at the pleasure of the board, the chief executive officer (CEO)/executive vice-president,

to approve the compensation range and describe the powers and duties for that official consistent with the law, and to require a bond of any employee handling any monies of the organization.

C. **Contracts.** The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the corporation and such authority may be general or confined to specific instances.

D. **Loans.** No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by resolution of the board of directors. Such authority may be general or confined to specific instances.

E. **Payment of Monies.** All checks, drafts, and other orders of payment of money issued in the name of the corporation within budget shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors.

F. **Deposits.** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such depositories as the board of directors by resolution may direct.

Section 12. Meetings.

A. **Meetings.** Regular meetings of the board of directors shall be held at such times and places as from time to time may be designated by the president of the board. Special meetings of the board for any purpose or purposes may be called at any time by the president or by a majority of the directors. The time for regular meetings and special meetings of this corporation shall be provided for by board resolution or, if none, by the president.

B. Notice. Written notice of the time and place of any regular or special meeting of the board of directors or the executive committee shall be delivered personally to each voting member of the respective body, or sent to each voting member by mail or other form or written delivery, charges prepaid, addressed to him or her at his or her address as it is shown in the corporate records, or by fax or e-mail, sent to him or her at the fax number or e-mail address shown in the corporate records. Any such notice shall be mailed, delivered, faxed or e-mailed at least seventy-two (72) hours before the date of a regular meeting, and at least twenty-four (24) hours before the time of a special meeting.

C. Brown Act Compliance. All meetings of the corporation, whether of the board of directors or its committees and commissions, shall be held in conformity with the Brown Act, found at Government Code Section 54950 et seq. Accordingly, any and all meetings of the board of directors and the corporation=s committees and commissions to which the Brown Act applies, shall be open and public.

1. A Meeting@ Defined. A Ameeting@ under the provisions of the Brown Act includes any congregation of a majority of the members of the board of directors, executive committee, or any other committee of the corporation to which the Brown Act applies, at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of any such body or the local agencies to which it pertains.

2. Notice. Where required by the Brown Act, the board of directors of the corporation shall:

(a) Cause mailed notice of any regular meeting to be sent at least seventy-two (72) hours prior to the date set for the meeting to any and all persons who have filed a written request for that notice with the board of directors;

(b) Cause mailed notice of any special meeting to be given as deemed practical, provided it otherwise complies with Brown Act requirements, where the special meeting is called less than seventy-two (72) hours prior to the date set for the meeting to any and all persons who have filed a written request for that notice with the board of directors;

(c) Cause notice of any special meeting of the board of directors to be personally delivered or mailed to each local newspaper of general circulation, radio or television station requesting notice in writing, said notice, stating time, place and business to be transacted, to be received at least twenty-four (24) hours before the time of the meeting as specified in the notice;

(d) Cause notice of the date, time and location of any regular meeting, and an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, to be posted at least seventy-two (72) hours prior to the meeting in a location that is freely accessible to members of the public; and

(e) Cause notice of the date, time, and location of any special meeting to be posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to members of the public.

3. **Agenda.** Every meeting agenda mailed or posted shall provide an opportunity for members of the public to directly address the board of directors or executive committee on any item of interest to the public, before or during consideration of the item.

4. **Adjournment.** Where a meeting is adjourned, the time and place to which it is adjourned shall be announced at the time of adjournment, and the time and place so announced shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment. Written notice of said adjournment shall be given in the same manner as provided for special meetings under Article 5, Section C2, subsections b, c and e of these bylaws. Where a regular meeting or adjourned regular meeting is adjourned, the resulting adjourned meeting is a regular meeting for all purposes, including notice.

5. **Cancellation of Scheduled Meetings.** The president, with the concurrence of the chief executive officer, may cancel any scheduled meeting when in their opinion there is no policy matter requiring a full board meeting, or due to lack of quorum.

D. Quorum.

1. **Meetings of the Board of Directors.** At least half of the whole number of directors then serving on the board shall constitute a quorum for the transaction of business by the board of directors of the corporation, and every act or decision of a majority of the directors present at a meeting at which at least a quorum is present, made or done when duly assembled, shall be valid as the act of the board of directors. A majority of those present at the time and place of any stated or special meeting, although less than a quorum, may adjourn without further notice. When a quorum shall attend, any business may be transacted that might have been transacted at the meeting had the same been held on the day which the same was originally appointed or called. Should a meeting be held with less than a quorum present, any business transacted thereat may be advisory only and not valid as an act of the board of directors.

Every voting member or member of the board of directors shall have one vote for the transaction of business of the corporation, and the use of proxy votes is prohibited.

2. **Meetings of the Executive Committee.** The presence of a majority of the executive committee, together with the chief executive officer, at any executive committee meeting shall constitute a quorum.

E. **Waiver of Notice.** Providing there is no violation of the Brown Act, the transactions of any meeting of the board of directors or any committee or commission of this corporation, however called and noticed, shall be valid as though a meeting had been held after regular call and notice if a quorum is present and if either before or after the meeting each of the voting members not present signs a written waiver of notice, or a consent to holding this meeting, or an approval of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice. All of the waivers, consents, or approval shall be filed with the corporate records or be made part of the minutes of the meeting.

F. **Conduct of Meeting.** The president of the board, or in his or her absence, the vice-president, or in the absence of the vice-president, a chairperson elected by the directors present, shall call the meeting to order, and shall act as the presiding officer thereof.

G. **Minutes.** The chief executive officer of the corporation shall cause the minutes of all meetings to be recorded, and in his or her absence, the presiding officer may appoint any person to act as recorder. These minutes shall be promptly mailed to each member of the committee having met, and to each member of the board of directors of the corporation, and a copy shall be filed in the corporation office with the corporate records.

ARTICLE VI

OFFICERS

Section 1) Officers. The executive officers of the corporation shall be a president of the board, the immediate past president, vice-president, treasurer, and chief executive officer, who shall serve as the executive director of the corporation.

In addition to the above-mentioned officers, the board of directors may appoint such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties and receive such compensation as the board of directors may from time to time prescribe. No one director may hold more than one position.

Section 2) Election. All officers, except the chief executive officer, shall be elected by the board of directors from their own number and shall hold office for one (1) year or until their successors are elected. There shall be no limit on the number of consecutive terms that a board member can hold an office, except as provided for by the board of directors.

Section 3) Compensation. The compensation of the chief executive officer shall be fixed by the board of directors. No compensation shall be given to the executive officers, except the chief executive officer.

Section 4) Removal and Resignation. Subject to the rights, if any, of an officer under any contract of employment, the board at any regular or special meeting may remove any officer, with or without cause.

Section 5) Vacancies. If the office of president, immediate past president, vice-president, or treasurer, becomes vacant, by reasons of death, resignation, removal or otherwise,

the board of directors shall elect a successor, who shall hold office for the unexpired term, and/or until his or her successor is elected.

Section 6) Positions and Responsibilities.

A. President. The president of the board shall preside at all the meetings of the membership. The president shall execute, with the chief executive officer and in the name of the corporation, all deeds, bonds, contracts exceeding \$7,500 in value, and other obligations and instruments authorized by the board of directors to be executed, and with the chief executive officer shall sign all certificates of honorary membership of the corporation. The president shall appoint from the board of directors any committees that may from time to time be needed to conduct the business of the corporation. The president shall be an ex officio member of all committees and shall be a member of the executive committee.

The president shall also have such other powers and shall perform such other duties as may be assigned to him or her by the board of directors.

B. Immediate Past President. The immediate past president shall be a member of the executive committee and perform such duties as may be prescribed from time to time by the board of directors.

C. Vice-President. The vice-president shall be vested with all the powers and shall perform all the duties of the president of the board, in case of the absence or disability of the president. The vice-president shall also have such other powers and shall perform such other duties as may be assigned by the board of directors.

D. Treasurer. The treasurer shall insure the safekeeping of all funds of the corporation and insure the deposit of them in the bank or banks that may be designated by the

board of directors. Checks of the corporation in excess of a maximum amount authorized by the board shall be paid out only when signed by the chief executive officer and any other elected officer approved by the board for that purpose, or by such agents as may be designated by the board of directors as authorized to sign them. The treasurer shall have such other powers to perform such duties as may be prescribed by the board of directors from time to time.

E. Chief Executive Officer. The chief executive officer (hereinafter, ACEO@) shall be the chief executive officer of the corporation and executive director of the Bureau. The CEO shall have general charge of the business of the corporation, and shall, in general, perform all duties delegated by the board of directors. Job descriptions and a total compensation plan (wages/salary, benefits) for the CEO shall be recommended, and compensation and performance shall be reviewed annually, by the executive committee. Recommendations for adoption shall be submitted to the board of directors for approval. Once approved, a written contract for the CEO will be drawn up and signed by the CEO and the president as authorized by the board. His or her duties and obligations include, but are not limited to, the following:

1. **Execution of Instruments.** The CEO shall execute, with the president of the board and in the name of the corporation, all deeds, bonds, contracts, and other obligations and instruments authorized by the board of directors to be executed, and with the president of the board shall sign all certificates of honorary membership of the corporation.

2. **Committees and Meetings.** The CEO shall be a nonvoting member of the board of directors and all committees. As such, the CEO shall cause to be kept the minutes of all proceedings of the board of directors and all committees of the corporation. The CEO shall

attend to the giving and servicing of notices of all meetings of the board of directors, committees, and otherwise.

3. **Record Keeping.** The CEO shall act as corporate secretary. As such, he or she shall keep and have charge of the minutes of the meetings of the board of directors, and shall keep in an orderly fashion a record of such meetings. The CEO shall keep such books and papers as the board of directors may direct.

4. **Financial Management and Records.** The CEO shall keep, or cause to be kept, full and accurate accounts of receipts and disbursements to be kept in books for that purpose. The CEO shall receive and deposit, or cause to be deposited, all monies and other valuables of the corporation, in the name of and to the credit of the corporation in such depositories as may be designated by the board of directors. The CEO shall disburse or cause to be disbursed the funds of the corporation as may be directed by the board of directors, taking proper vouchers for such disbursements. The CEO shall render to the president of the board and to the board of directors, whenever they may require, accounts of his or her transactions and of the financial condition of the corporation.

5. **Hiring.** The CEO shall have the power to hire and terminate all employees of the corporation and shall set all employees' job responsibilities and compensation consistent with the budget approved by the board of directors.

ARTICLE VII

COMMITTEES

Section 1) **Standing Committees.**

A. **Formation.** The board may establish the following committees which shall advise the board in their areas of responsibility as set forth, or as time to time prescribed, by the board.

1. The executive committee shall consist of the officers of the corporation and up to five (5) board members as selected by the board. Each member of the executive committee shall serve for a period of one (1) year or until their successors are selected. There shall be no limit on the number of consecutive terms that any board member may serve on the executive committee. The CEO shall be a nonvoting member of the executive committee. The executive committee shall make recommendations and set the agenda for the board, transact business of an emergency nature on behalf of the board of directors between meetings of the board. At the direction of the board, the executive committee shall conduct an annual performance evaluation of the CEO and report to the board its findings, together with any recommendations for action.

2. The nominating committee shall work with the agencies responsible for designating directors, recommend members at large, and shall nominate officers.

3. In the event that the board determines that the management of the corporation would be benefited by the establishment of one or more standing or special committees in addition to the executive committee and the nominating committee, the board may from time to time establish one or more such committees/task forces.

B. **Composition and Meetings.** Each committee shall consist of a chairperson and committee members appointed by the president and approved by the board.

Each committee shall meet on call of the chairperson of that committee. Except that the president or a majority of the executive committee may call a meeting of the executive committee.

ARTICLE VIII

RECORDS AND REPORTS

Section 1) Record of Contributors/Associates. The chief executive officer shall keep or cause to be kept, at the principal office of the corporation, an annual record showing the names and addresses of each contributing member and the individual, if any, entitled to represent that member. Termination of any such honorary membership shall be recorded in the record, together with the date on which the honorary membership ceased.

Section 2) Records. The corporation shall keep adequate and correct records of account and minutes of the proceedings of its board and committees. The minutes shall be kept in written form. Other books and records shall be kept in wither written form or in any other form capable of being converted into written form. The articles of incorporation and bylaws of the corporation, with amendments to current dates, shall also be maintained at the principal office of the corporation.

Section 3) Annual Report. The board of directors shall cause an annual report to be prepared after the end of the corporation=s fiscal year. The report shall contain all the information required by Section 6321(a) of the Corporations Code, or any successor statute thereto, and shall be accompanied by any report thereon of independent accountants. Said report may take the form of an annual review. An annual audit shall not be necessary unless required by the board of directors. If there is no such report, the certificate of an authorized officer of the

corporation that such statements were prepared without audit from the books and records of the corporation shall be attached to the annual report. The annual report shall be furnished to all directors.

ARTICLE IX

LIABILITY AND INDEMNIFICATION

Section 1) Liability. To the fullest extent allowed by law, there shall be no monetary liability and no cause of action for damages shall arise against any nonpaid director, including a nonpaid director who is serving as a nonpaid officer or committee member of this corporation.

Section 2) Contracts With Directors and Officers. No director of this corporation nor any other committee, firm, association, or other entity in which one or more of this corporation=s directors are directors, or have a material financial interest, shall be interested, directly or indirectly, in any contract or other transaction with this corporation, unless the material facts regarding such director=s financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and are noted in the minutes or are known to all board members before consideration by the board of such contract or transaction, and such contract or transaction is authorized in good faith by a majority of the board by a vote sufficient for that purpose without counting the vote of the interested director.

Section 3) Loans to Directors and Officers. This corporation shall not lend any money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, affiliate, or subsidiary unless (a) the board decides that the loan or guaranty may reasonably be expected to benefit the corporation, and (b) before consummating the transaction

or any part of it, the loan or guaranty is approved by the vote of a majority of the directors then in office, without counting the vote of the director who is to receive the loan or guaranty.

Section 4) Indemnification. To the fullest extent permitted bylaw, this corporation shall indemnify its directors, officers, employees, and other persons described in Corporations Code Section 5238(a), including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any Aproceeding,@ as that term is used in that section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. AExpenses,@ as used in this bylaw, shall have the same meaning as in that section of the Corporations Code.

On written request to the board by any person seeking indemnification under Corporations Code Section 5238(b) or Section 5238(c), the board shall promptly decide under Corporations Code Section 5238(e) whether the applicable standard of conduct set forth in Corporations Code Section 5238(b) or Section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification, because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the board shall promptly call a meeting of members. At that meeting, the members shall determine under Corporations Code Section 5238(e) whether the applicable standard of conduct has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under this section in

defending any proceeding covered by this section shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

Section 5) Insurance. This corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising from the officer=s, director=s, employee=s, or agent=s status as such.

ARTICLE X

FISCAL YEAR

The fiscal year for the corporation shall be the calendar year July 1 to June 30.

ARTICLE XI
AMENDMENTS

The bylaws of the corporation may be amended at any meeting of the board, so long as the directors have received written notification of the substance of the proposed amendments or amendments at least seven (7) days prior to the meeting, and the proposed amendment is approved by a two-thirds (2/3) vote of the directors then holding office.

ARTICLE XII
CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the foregoing, the masculine, feminine, or neuter gender, and the singular or plural number, each shall be deemed to include the others whenever the context so indicates, and the term Aperson@ includes both a legal entity and a natural person.

CERTIFICATION

I, _____, hereby certify:

That I am the duly elected and acting secretary of MODESTO CONVENTION AND VISITORS BUREAU. The foregoing Bylaws, consisting of sixteen (16) pages, constitute the Bylaws of this nonprofit, public benefit corporation, as duly adopted on by the vote of the designed directors of the Corporation.

Executed this _____ day of _____, 2001

Secretary

**SECRETARY OF STATE**

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

OCT - 8 2002

Handwritten signature of Bill Jones.

Secretary of State

SEP 12 2002

BILL JONES, Secretary of State

ARTICLES OF INCORPORATION
OFMODESTO CONVENTION AND VISITORS BUREAU,
a California public benefit corporation

ARTICLE I

Name. The name of this corporation is the Modesto Convention and Visitors Bureau, Inc. ("Bureau").

ARTICLE II

(A) This corporation is a non-profit public benefit corporation and is not organized for the private gain of any person. It is organized under the non-profit public benefit corporation law for the purpose of improving business conditions generally in the City of Modesto, within the meaning of United States Tax Code Section 501(c)(6) and California Revenue and Taxation Code Section 23701(e).

(B) The specific purposes for which this corporation is organized are: (1) to attract visitors to the area by promoting and marketing Modesto as a convention, sports, tourism, and leisure travel destination, (2) to provide coordination and leadership for the community and the visitor industry on matters relating to convention activity and tourism, (3) to gather community information designed to convey to opinion leaders and the public at large the status of the visitor industry, (4) to work with local governmental agencies, private enterprise and other interested parties to structure suitable financing plans for the bureau, and to implement those plans.

(C) Limitation: Bureau shall be non-profit and non-partisan and shall neither participate in nor lend its support to the election of any candidate for public office.

ARTICLE III

The name and address in the State of California of this corporation's initial agent for service of process is:

Roland R. Stevens, Assistant City Attorney
City of Modesto
P. O. Box 642
Modesto, CA 95353

ARTICLE IV

The names and addresses of the persons appointed to act as the initial directors of this corporation are:

<u>Name</u>	<u>Address</u>
Jack Crist, Initial Director	City of Modesto P. O. Box 642 Modesto, CA 95353
Robert Quintella, Initial Director	City of Modesto 1000 L Street Modesto, CA 95354
Roland R. Stevens, Initial Director	City Attorney's Office P. O. Box 642 Modesto, CA 95353

ARTICLE V

(A) This corporation is organized and operated exclusively for the purposes set forth above. In no event will any part of its net earnings inure to the benefit of any private individual. The corporation is not organized for profit or to engage in an activity ordinarily carried on for profit.

(B) The corporation is, will be, and will remain an incorporation of an association of persons having common business interests, the purpose of which is to promote that common interest(s), and not to engage in a regular business of a kind ordinarily carried on for profit.

(C) The corporation will be devoted to the improvement of business conditions of one or more lines of business in the Modesto, California area, as distinguished from the performance of particular services for individual persons.

(D) The corporation may or may not engage in the operation of a trade publication primarily intended to attract visitors to the Modesto area by promoting and marketing Modesto as a convention, sports, tourism, and leisure travel destination, which thereby is intended to benefit the tourism industry in general, and not a specific company or companies within that industry, or any other industry.

(E) The corporation will also be operated to encourage the use of goods and services of the entire travel, recreation, sports and leisure industry in and around the City of Modesto, California.


(F) The corporation is organized to work for the enactment of laws to advance the common business interests of the corporation's members as permitted within the meaning of United States Tax Code Section 501(c)(6) as it is currently enacted and interpreted, and as that statute may be amended or interpreted in the future. Notwithstanding this or any other provision of these Articles, the corporation shall not carry on any activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 502(c)(6) of the Internal Revenue Code of the United States, or (2) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code of the United States.

(G) Except as set forth in the next preceding paragraph, no substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation. The corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of or opposing any candidate for public office. Exception: "grassroots lobbying" as permitted by Internal Revenue Service Publication 557 discussions of United States Tax Code Section 501(c)(6), such lobbying being limited to contacts of prospective members or calls upon members of the corporation to contact their employees and customers for the purpose of urging such persons to communicate with their elected state or congressional representatives to support the promotion, defeat, or repeal of legislation that is of direct interest to the organization.

ARTICLE VI

The property of this corporation is irrevocably dedicated to the purposes set forth in paragraphs IIA and IIB above, and no part of the net income or assets of the organization shall ever inure to the benefit of any director, officer, or member of the corporation, or to the benefit of any private person or organization. An affidavit of the officers of the Modesto Convention and Visitors Bureau is filed simultaneously with these Articles, averring that the transfer of all property owned by the Modesto Convention and Visitors Bureau has been approved for transfer to the Bureau in accordance with all of the procedures and rules of the Modesto Convention and Visitors Bureau and/or the City of Modesto Chamber of Commerce.


ROLAND R. STEVENS, Initial Director


JACK R. CRIST, Initial Director


ROBERT QUINTELLA, Initial Director

We declare that we are the persons who executed the foregoing Articles of Incorporation which execution is our act and deed.



ROLAND R. STEVENS, Initial Director



JACK R. CRIST, Initial Director



ROBERT QUINTELLA, Initial Director

AFFIDAVIT OF INCORPORATOR

I, ROLAND R. STEVENS, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau. I am a competent adult capable, if called to testify, of testifying to the truth of the following averments.

1. That I am the incorporator of that certain corporation named the Modesto Convention and Visitors Bureau, Inc.

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.



ROLAND R. STEVENS, Incorporator

AFFIDAVIT OF INCORPORATOR

I, JACK R. CRIST, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau.

1. I am a competent adult capable, if called to testify, testifying to the truth of the following averments:

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.



JACK R. CRIST, Incorporator

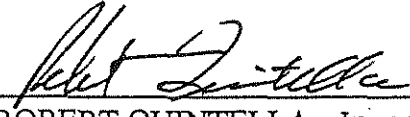
AFFIDAVIT OF INCORPORATOR

I, ROBERT QUINTELLA, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau.

1. I am a competent adult capable, if called to testify, testifying to the truth of the following averments:

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.



ROBERT QUINTELLA, Incorporator



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-101**

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN TO SHIFT COMPREHENSIVE PLANNING DISTRICT BOUNDARIES IN ORDER TO ADD A 17.4 ACRE PROPERTY LOCATED AT THE NORTHEAST CORNER OF COFFEE ROAD AND CLARATINA EXPRESWAY, TO THE NORTH BEYER COMPREHENSIVE PLANNING DISTRICT (SHELTER COVE CHURCH) (FILE NO. GPA 2002-02-002)

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report (“Master EIR”) (SCH #92052017) for the Modesto Urban Area General Plan, and

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, in accordance with Section 65300 of the Government Code, and

WHEREAS, said General Plan has been 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 and 2002-526, copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body up to four times per year, and

WHEREAS, Shelter Cove Church applied for an amendment to the North Beyer Specific Plan (File No.P-SPA-02-001) to include the 17.4 acre property located on the northeast corner of Coffee Road and Claratina Avenue in the North Beyer Specific Plan and designate the subject property as Church (CH) for the purposes of developing the project site as a church, and

WHEREAS, City staff determined that this Specific Plan amendment would require an amendment to the General Plan, and

WHEREAS, Shelter Cove Community Church has proposed an amendment to the City of Modesto Urban Area General Plan (File No. GPA 2002-02-002) to shift comprehensive planning district boundaries in order add the subject 17.4 acre property to the North Beyer Comprehensive Planning District, and

WHEREAS, on January 27, 2003, 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 relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, after said public hearing, the Modesto Planning Commission adopted Resolution No. 2003-03, recommending to the City Council an amendment to the Modesto Urban Area General Plan Community Development Policies Section, Exhibit III-8, Hetch Hetchy Comprehensive Planning District and Exhibit III-15, North Beyer Comprehensive Planning District to shift comprehensive planning district boundaries in order to add the subject 17.4 acre property to the North Beyer Comprehensive Planning District, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 25, 2003, in the Tenth Street Place Chambers located at 1010 Tenth 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 Community Development Policies Section, Exhibit III-8, Hetch Hetchy Comprehensive Planning District and Exhibit III-15,

North Beyer Comprehensive Planning District, to shift comprehensive planning district boundaries in order add the subject 17.4 acre property to the North Beyer Comprehensive Planning District.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban Area General Plan Community Development Policies Section shifting comprehensive planning district boundaries to add the subject 17.4 acre property to the North Beyer Comprehensive Planning District is required for the public health, safety and welfare of the citizens of Modesto and said General Plan is hereby amended to read as shown on **Exhibit "A"** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the General Plan to the Board of Supervisors, and file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

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 a general plan amendment (File No. GPA 2002-02-002), and related files. 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 the regular meeting of the Modesto City Council held on February 25, 2003, by Councilmember Fisher, 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:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM.

By:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"
URBAN AREA GENERAL PLAN AMENDMENT
BY SHELTER COVE CHURCH

HETCH HETCHY

COMPREHENSIVE PLANNING DISTRICT

1. Overview

960

This 980-acre Comprehensive Planning District, located between Claribel Road and Claratina Avenue (a proposed expressway), proposes predominantly "Village Residential" uses. The Hetch hetchy electrical transmission lines and aqueduct, which ultimately serve the City and County of San Francisco, traverse this site in a 110-foot-wide right-of-way.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

840

- 860 acres designated "Village Residential"
- 120 acres designated "Regional Commercial"

b. Distribution of Land Uses Within the CPD

- (1) The regional commercial uses are located along the east side of McHenry Avenue to accommodate the established commercial uses along McHenry Avenue.
- (2) The supporting commercial uses in the Village Residential portion of this Comprehensive Planning District should be sited to facilitate pedestrian access from the residential development.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))
- (2) Neotraditional Planning Principles (Section III-C(3))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of ~~4,400~~ 4,300 dwelling units.
- (2) The Hetch Hetchy right-of-way, power lines, and aqueduct that traverse this Comprehensive Planning District present a significant design constraint that should be addressed.
- (3) The regional commercial uses should be located along the east side of McHenry Avenue to join the established commercial uses along McHenry Avenue.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by an extension of the North Trunk from Dale Road easterly through two Comprehensive Planning Districts: Kiernan/Carver and Kiernan/McHenry.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ^{4,300}~~4,400~~ dwelling units was assumed for this Comprehensive Planning District.
 - b. A total of 3,100 employees was assumed for this Comprehensive Planning District.
7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundary between the Village Residential and Regional Commercial uses will be determined by the Comprehensive Plan.

HETCH HETCHY C.P.D.

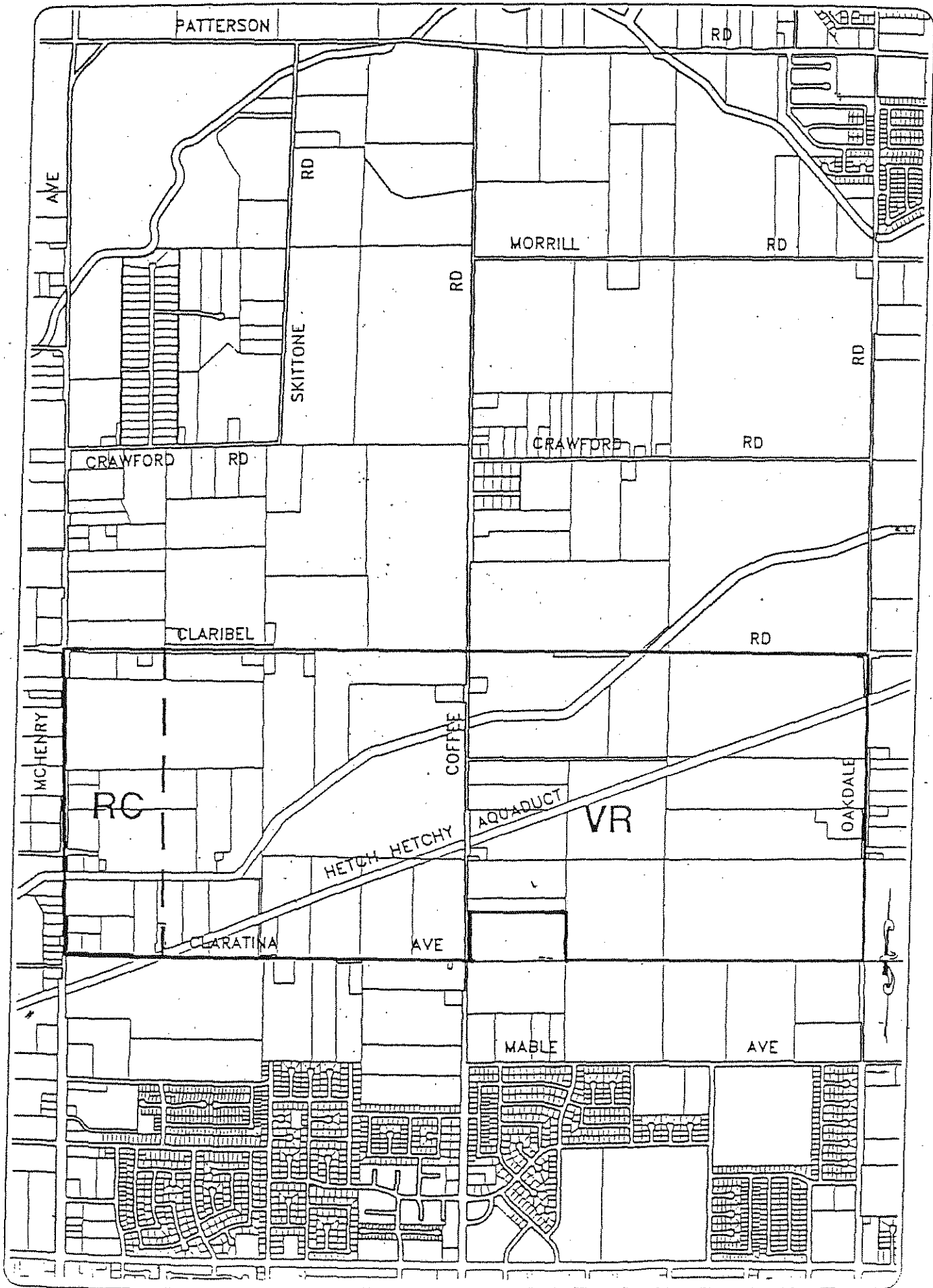


Exhibit III-15

NORTH BEYER

COMPREHENSIVE PLANNING DISTRICT

1. Overview

180

This ~~160~~-acre Comprehensive Planning District is essentially an extension of the existing residential development (Beyer Neighborhood) south of Mable Avenue.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

180

~~160~~ acres: 130 acres designated "Residential" and 30 acres designated "Mixed Use," and 20 acres designated "Village Residential."

b. Distribution of Land Uses Within the CPD

The Mixed Use areas are located: 1) along Coffee Road between Pelandale Expressway and Mable Avenue, 2) the southwest corner of the Oakdale Road Pelandale Expressway intersection.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))
- (2) "Neighborhood Plan Prototype" Policies (Section III-C(2))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 1,200 dwelling units.
- (2) Neighborhood Shopping Center(s) developed within the Mixed Use areas shall be consistent with the City's Neighborhood Shopping Center Policy.
- (3) The Village Residential 20 acres shall be developed as a church, or remain as a golf course/driving range. If the 20 acres of Village Residential is proposed to be developed as any other use, it will be required to develop with the Hetch Hetchy CPD, and be subject to all development guidelines contained in the Hetch Hetchy CPD Exhibit III-8.

PROPOSE

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system.

6. Focused EIR:

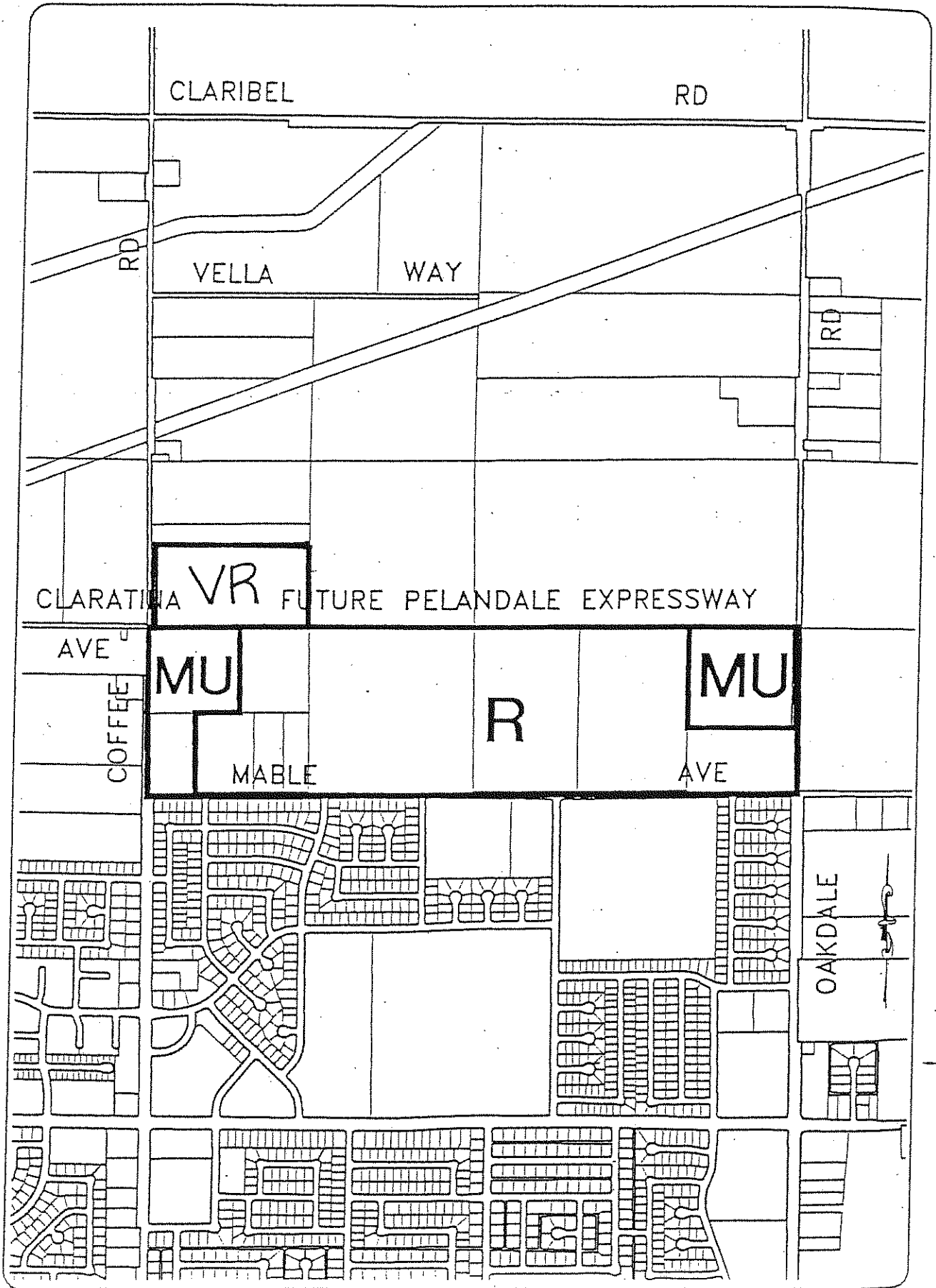
General Plan Policy III(D)(1)(g) specifically exempts the North Beyer CPD from the requirement to prepare a Focused EIR. CEQA review for the Comprehensive Plan for the North Beyer Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 1,200 dwelling units was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

NORTH BEYER C.P.D.



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-102**

A RESOLUTION APPROVING AN AMENDMENT TO THE NORTH BEYER SPECIFIC PLAN TO INCLUDE A 17.4 ACRE PROPERTY LOCATED AT THE NORTHEAST CORNER OF COFFEE ROAD AND CLARATINA AVENUE IN THE NORTH BEYER SPECIFIC PLAN AND DESIGNATE THE SITE AS CHURCH (CH) (SHELTER COVE CHURCH) (FILE NO. P-SPA-02-001)

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 greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on November 26, 1996, the City Council by Resolution No. 96-641, adopted the North Beyer Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of Specific Plans as often as deemed necessary by the legislative body, and

WHEREAS, Shelter Cove Church applied for an amendment to the North Beyer Specific Plan to include the 17.4 acre property located on the northeast corner of Coffee Road and Claratina Avenue in the North Beyer Specific Plan and designate the subject property as Church (CH) for the purposes of developing the subject property as a church, and

WHEREAS, on January 27, 2003, 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 relating to this proposed amendment to the North Beyer Specific Plan was considered, and

WHEREAS, after said public hearing held on January 27, 2003, the Planning Commission adopted Resolution No. 2003-04, recommending to the City Council an amendment to the North Beyer Specific Plan to include the 17.4 acre property located on the northeast corner of Coffee Road and Claratina Avenue in the North Beyer Specific Plan and designate the subject property as Church (CH), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 25, 2003, at 5:15 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, and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the proposal to amend the North Beyer Specific Plan to include the 17.4 acre property located at the northeast corner of Coffee Road and Claratina Avenue in the North Beyer Specific Plan, as recommended by the Planning Commission in its Resolution 2003-04, is consistent with the City of Modesto General Plan for the following reasons:

1. The project is compatible with the surrounding existing and planned land uses.
2. The proposed Specific Plan land use designation for the project site, Church (CH), is consistent with the Village Residential (VR) General Plan land use designation.
3. The street improvements and traffic control measures that will be implemented with this project will ensure that there will be no significant increase in traffic impacts to the surrounding area resulting from this project.
4. A sewer capacity analysis prepared by Northstar Engineering Group dated December 9, 2002, determined that the existing sewer line in Coffee Road provides adequate capacity to serve the project site and the remaining undeveloped portions of the North Beyer Park and Coffee-Claratina plan areas. The Northstar report determined that no new trunk, subtrunk lines would need to be extended to serve the project, and no sewer facilities downstream of the project site would need to be upgraded. The City

Engineering & Transportation Department reviewed the Northstar report, and concurs with the conclusions contained therein.

5. An analysis of water needs for the project prepared by Northstar Engineering dated December 9, 2002, determined that future development of the project site can connect to existing City facilities for the provision of water that would not require additional water supplies beyond those identified in the Increased Demand for Water Supplies section of the General Plan Master Environmental Impact Report. The City Engineering & Transportation Department reviewed the Northstar report, and concurs with the conclusions contained therein.
6. Flood control measures that will be implemented with this project will ensure that there will be no significant impact to planned stormwater drainage systems.
7. The proposed project would develop at intensities equal to or less than those set forth in the General Plan, and as such, would result in no new or additional significant effect related to the degradation of air quality, not analyzed by the General Plan Master Environmental Impact Report.
8. The proposed project will not affect any land designated open space in the General Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that said amendment to the North Beyer Specific Plan to include the 17.4 acre property located at the northeast corner of Coffee Road and Claratina Avenue in said Specific Plan, as recommended by the Planning Commission, is hereby approved as set forth in **Exhibit "A"**, a copy of which is attached hereto and incorporated herein by reference, and on file in the office of the City Clerk.

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 the specific plan amendment (File No. P-SPA 02-002) and related files. 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 the regular meeting of the Modesto City Council held on February 25, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

Michael D. Milich

MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

Amendment to the North Beyer Specific Plan (File No. P-SPA-02-001)

AMENDMENTS
TO THE
NORTH BEYER PARK
SPECIFIC PLAN

Paragraphs and Figures for insertion are listed in the following document as "INSERT # _". Following with the attached Specific Plan, you will see corresponding "INSERT # _" to show where the new wording or Figure is proposed.

North Beyer Specific Plan
Text Inserts

INSERT # 1

Add SPA#2 to page entitled
Amendments to the North Beyer Park Specific Plan

SPA#2 Amended to expand the plan area to include approximately 20-
acres at the northeast corner of Coffee Road and Claratina
Expressway and specify development as a church site.

INSERT # 2

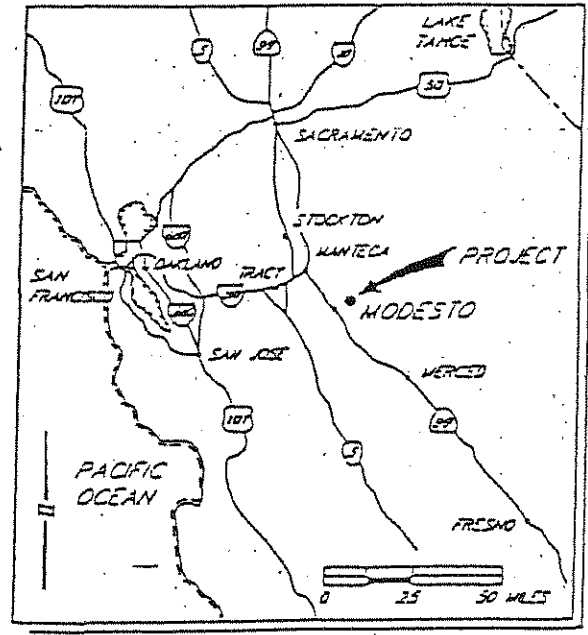
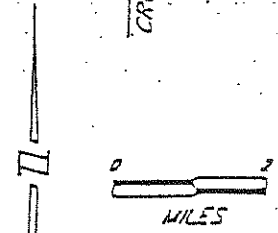
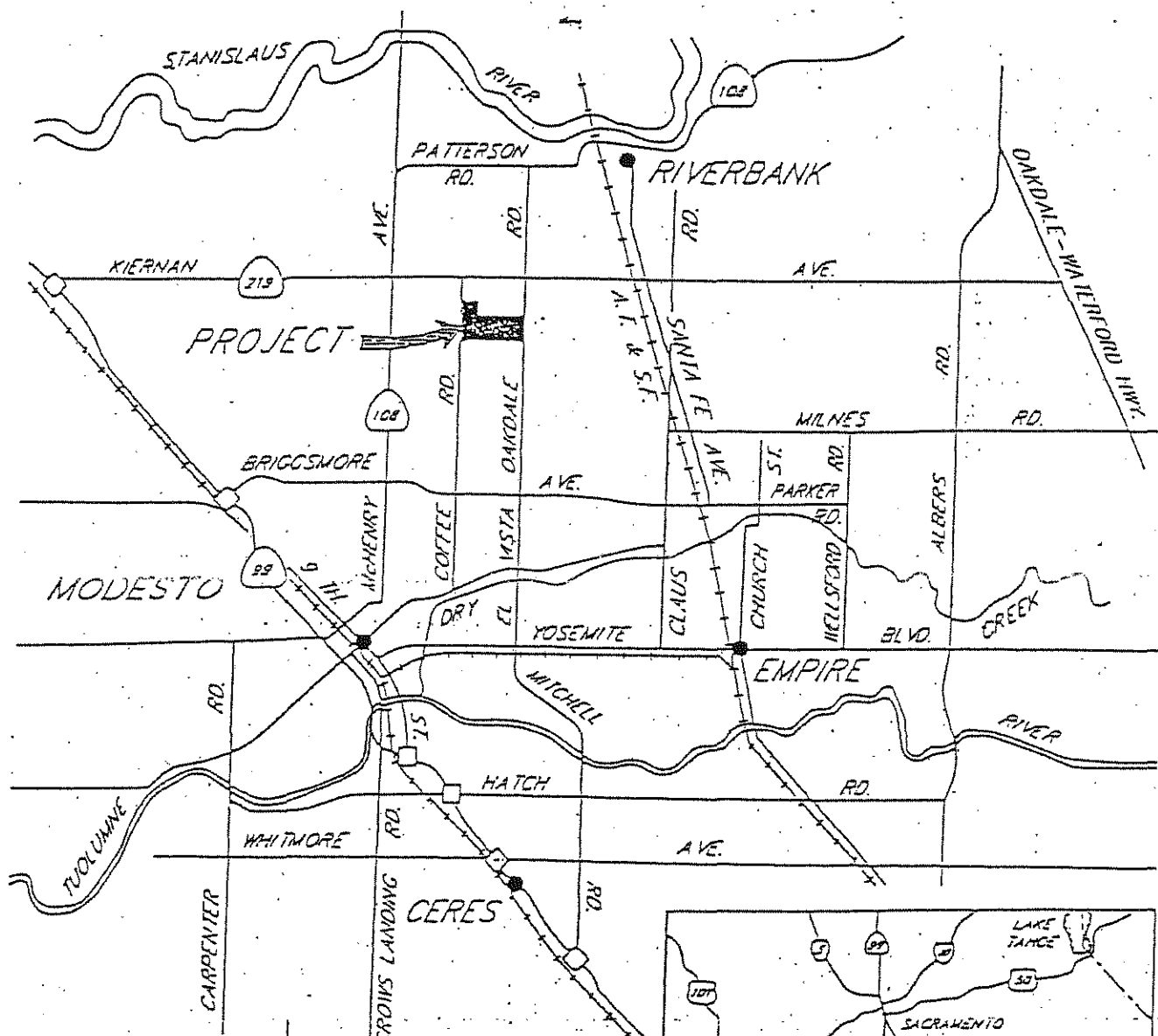
New Third Paragraph
(Chapter 1; Section B.)

In September of 2002, an application was submitted to amend the specific plan to realign its northerly boundary to add the existing approximately 17 acre Claratina Driving Range and Golf Course (the "Claratina Driving Range") site to the North Beyer Specific Plan, to add a land use designation to the North Beyer Specific Plan of Church (CH), and to designate the Claratina Driving Range for development as a church (CH). The Claratina Driving Range is located at the northeast corner of Coffee Road and the Claratina Expressway, and Figure 1 has been modified to show the addition of this property to the North Beyer Specific Plan.

(If approved by the City Council, final action information will be added here.)

INSERT # 3

New Figure 1 showing Project Location



PROJECT LOCATION
FIGURE 1



INSERT #3

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INSERT # 4

New Third Paragraph (Chapter 1; Section E.)

To allow the addition of the Claratina Driving Range property to the North Beyer Specific Plan, a General Plan Amendment was required to shift Comprehensive Planning District boundaries in the General Plan in order to add approximately 17 acres of land to the North Beyer CPD (General Plan Exhibit III-15) and simultaneously remove the property from the Hetch Hetchy CPD (General Plan Exhibit III-8). This General Plan Amendment was adopted prior to the inclusion of the Claratina Driving Range into the North Beyer Specific Plan.

INSERT # 5

New Third Paragraph (Chapter 1; Section G.)

As part of the addition of the Claratina Driving Range to the North Beyer Specific Plan, a Mitigated Negative Declaration was prepared, circulated and adopted (SCH # 2002122117).

INSERT # 6

New Land Use Designation (Chapter 2; Section A; Subsection 8.)

8. Church (CH)

The CH designation will permit the construction of a church after the acquisition of a Final Development Plan from the City of Modesto Planning Commission. The development standards shall be as set forth in the City's R-1 Zone, subject to the exceptions listed below. The only permissible use of the site will be as a church. The existing golf course/driving range is allowed as an interim use until the site is developed.

Exceptions to R-1 Standards

- a. Landscape setbacks shall be a minimum of 25 feet along Coffee Road and the Claratina Expressway and 15 feet along the north and east property lines.
- b. Walls shall incorporate decorative treatment including a cap treatment, pilasters and finished with materials complementary to the exterior materials on the building. Walls along the north or east property line should transition gradually from the maximum six foot (6') allowable height to 42" within the setback area.
- c. All exterior mechanical, heating and air conditioning equipment must be screened from public view.
- d. Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the site and avoid glare onto adjacent residential areas.

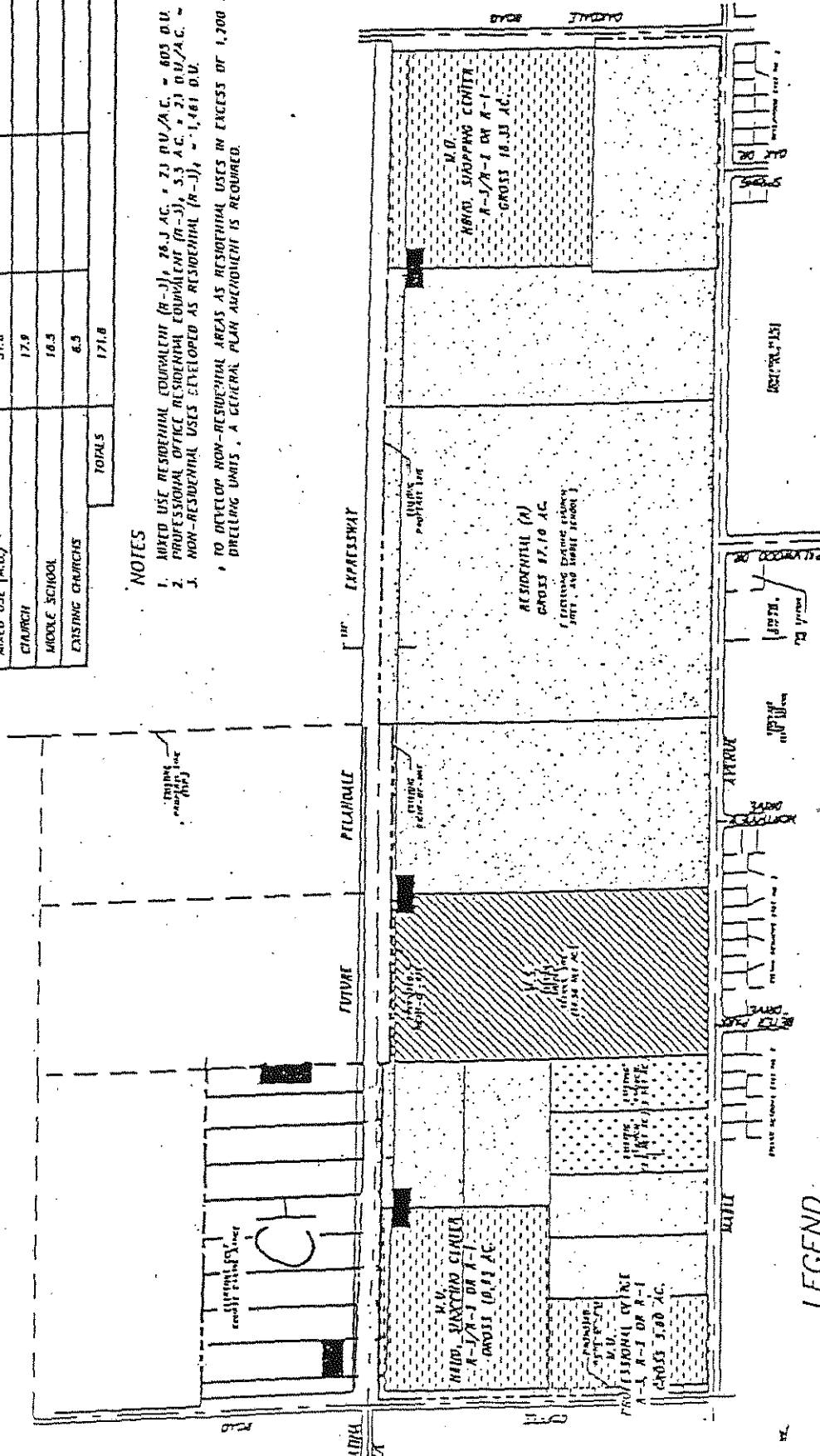
INSERT # 7

New Figure 2 Land Use Diagram

LAND USE	GROSS AC.	DENSITY	TOTAL DWELLING UNITS
RESIDENTIAL			
RESIDENTIAL	97.1	7.5 DU'S/AC	728
MIXED USE (M.U.) *	31.8		
CHURCH	17.9		
MIDDLE SCHOOL	16.3		
EXISTING CHURCHES	6.5		
TOTALS	171.8		

NOTES

- MIXED USE RESIDENTIAL EQUIVALENT (R-3), 26.3 AC. = 23 DU./AC. = 605 DU.
 - PROFESSIONAL OFFICE RESIDENTIAL EQUIVALENT (R-3), 5.3 AC. = 23 DU./AC. = 122 DU.
 - NON-RESIDENTIAL USES DEVELOPED AS RESIDENTIAL (R-3), = 1,481 DU.
- * TO DEVELOP NON-RESIDENTIAL AREAS AS RESIDENTIAL USES IN EXCESS OF 1,200 TOTAL DWELLING UNITS, A GENERAL PLAN AMENDMENT IS REQUIRED.



LEGEND

- PLAN AREA BOUNDARY
- PROPERTY OWNERSHIP LINE
- M.U. - MIXED USE, M/BD SHOPPING CENTER, PO, R-J, R-2 OR R1
- R - RESIDENTIAL (R-1)
- M.S. - MIDDLE SCHOOL
- EXISTING CHURCH SITES
- SD - STORM DRAINAGE BASINS
- CH - CHURCH



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LAND USE DIAGRAM
FIGURE 2

INSERT # 8

New Second Paragraph (Chapter 3; Section A)

The infrastructure plans contained in this Chapter were modified in 2003 as part of the addition of the Claratina Driving Range property to the North Beyer Specific Plan. The following discussion under Section B. INFRASTRUCTURE PLAN, details the revisions made to the infrastructure plans to accommodate the addition of the Claratina Driving Range property to the North Beyer Specific Plan.

INSERT # 9

New Second Paragraph (Chapter 3; Section B; Subsection 1)

The Claratina Driving Range will be served by a sewer fly line coming off of the manhole currently existing in the intersection of Coffee Road and the Claratina Expressway. The line will be sized to serve, and will serve, only the Claratina Driving Range property. Downstream sewer lines and lift stations have been analyzed and determined to have adequate capacity to serve the Claratina Driving Range as its existing use, or as a redeveloped church use.

The sewer line will be eight inches (8") in size coming to the site from the existing manhole at the intersection of Coffee Road and the Claratina Expressway. At development of the site, the on-site sewer will be constructed in such a manner that when the North Trunk becomes available north of the site, sewer flows can be diverted to that trunk line, and the connection to the line in Coffee Road can be abandoned. Figure 3 has been updated to show these sewer lines.

INSERT # 10

New Second Paragraph (Chapter 3; Section B; Subsection 2)

Concurrent with its redevelopment as a church, the Claratina Driving Range property will provide its own on-site storage for storm runoff, adequate to capture storm runoff to City Standards. A line will be stubbed from the site to permit for the future connection of the site to an area-wide storm drainage facility. The size and location of the facilities will be finally determined as part of the Final Development Plan process required for redevelopment of the site.

INSERT # 11

New Second Paragraph (Chapter 3; Section B; Subsection 3)

The Claratina Driving Range property will connect to the existing City water system for the provision of water to the site. A well site will be provided to the City, subject to reimbursement consistent with current City policy, for the location of a future well. The actual location for the well site will be determined as part of the Final Development Plan process required for the redevelopment of the site. As the entire site is currently served by an existing well for irrigation, domestic and fire flow purposes, this well may remain in service for a period of time, until connection to the City system is deemed appropriate. The connection is proposed to consist of a four to six inch (4"-6") line for domestic service, and an eight inch (8") line for fire flow.

INSERT # 12

New Second Paragraph

(Chapter 3; Section D; After Project Traffic Improvement Table)

The improvements set forth in the previous table were reanalyzed and evaluated as part of the Mitigated Negative Declaration for the addition of the Claratina Driving Range to the North Beyer Specific Plan. At the time of that evaluation, late 2002/early 2003, improvements contained in this table were in differing levels of completion, with some unfinished, some partially finished, and some complete. It was determined at that time that the redevelopment of the Claratina Driving Range as a church would require the completion of the traffic signal at the intersection of Coffee Road and the Claratina Expressway. This facility is incorporated into the City of Modesto Capital Facilities Fee Program (the "CFF Program"). At the redevelopment of the Claratina Driving Range property, the funding for the Coffee Road/Claratina Expressway traffic signal will be required as a condition of the project. The funding for this traffic signal will be reimbursed by the City from the CFF Program on the same schedule as if the City were constructing the signal without the project.

At the time of preparation of a site plan for review and processing on the project site, a Site Access Study, consistent with the General Plan requirement contained in Chapter V(B)(7)(c) shall be prepared. The Site Access Study will also evaluate how to provide adequate pedestrian and vehicular access to the balance of the Hetch Hetchy CPD, which may include the reservation of road right-of-way and/or the granting of vehicular/pedestrian cross access rights, to make certain that the project properly integrates with the balance of the Hetch Hetchy CPD, at the time of its development.

A preliminary site plan for the property designated Church (CH) shows an access point along the Claratina Expressway. In the General Plan, the Claratina Expressway is designated as a Class "B" Expressway. Consistent with the General Plan, access to the Expressway is not permitted unless certain findings can be made (Chapter V, Section B.5.c 1995 Urban Area General Plan).

INSERT # 13

New Figure 3 Sanitary Sewer and Water Infrastructure

INSERT # 14

New Figure 4 Storm Drain Infrastructure

INSERT # 15

New Figure 5 Vehicular Circulation Diagram

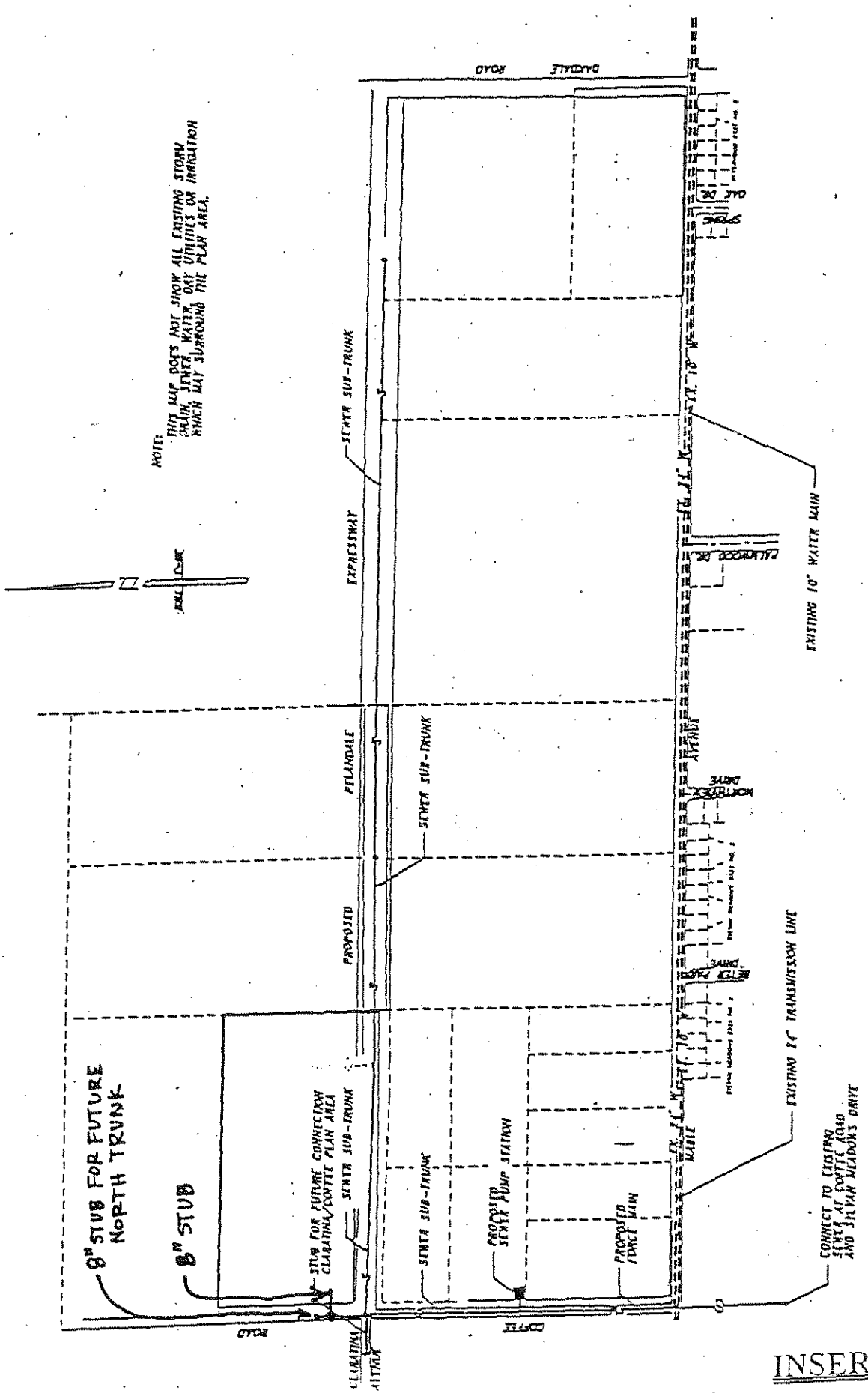
INSERT # 16

New Second Paragraph
(Chapter 4; Section C)

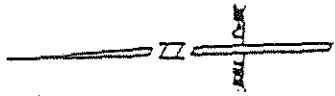
As part of the addition of the Claratina Driving Range into the North Beyer Specific Plan a Mitigated Negative Declaration was adopted along with a Mitigation Monitoring and Reporting Program. The mitigation measures contained therein are to be imposed at the redevelopment of the property to a church. The mitigation measures will be made conditions of the Final Development Plan which is required prior to redevelopment of the Claratina Driving Range property.

SANITARY SEWER AND WATER INFRASTRUCTURE

FIGURE 3

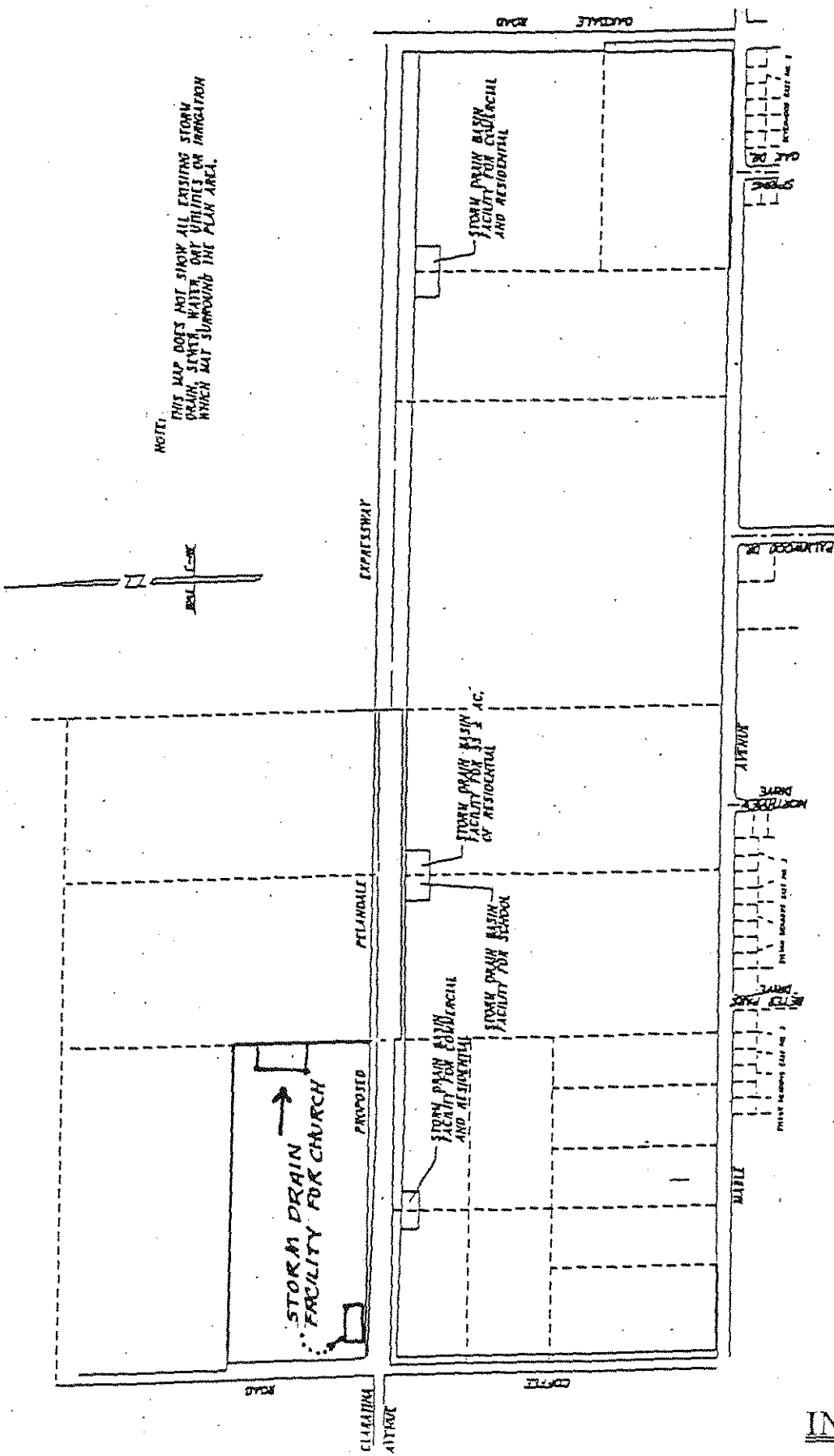


NOTE: THIS MAP DOES NOT SHOW ALL EXISTING STORM DRAIN, SEWER, WATER, OR UTILITIES OR INFRASTRUCTURE WHICH MAY SURROUND THE PLAN AREA.



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INSERT # 13



STORM DRAIN INFRASTRUCTURE
FIGURE 4

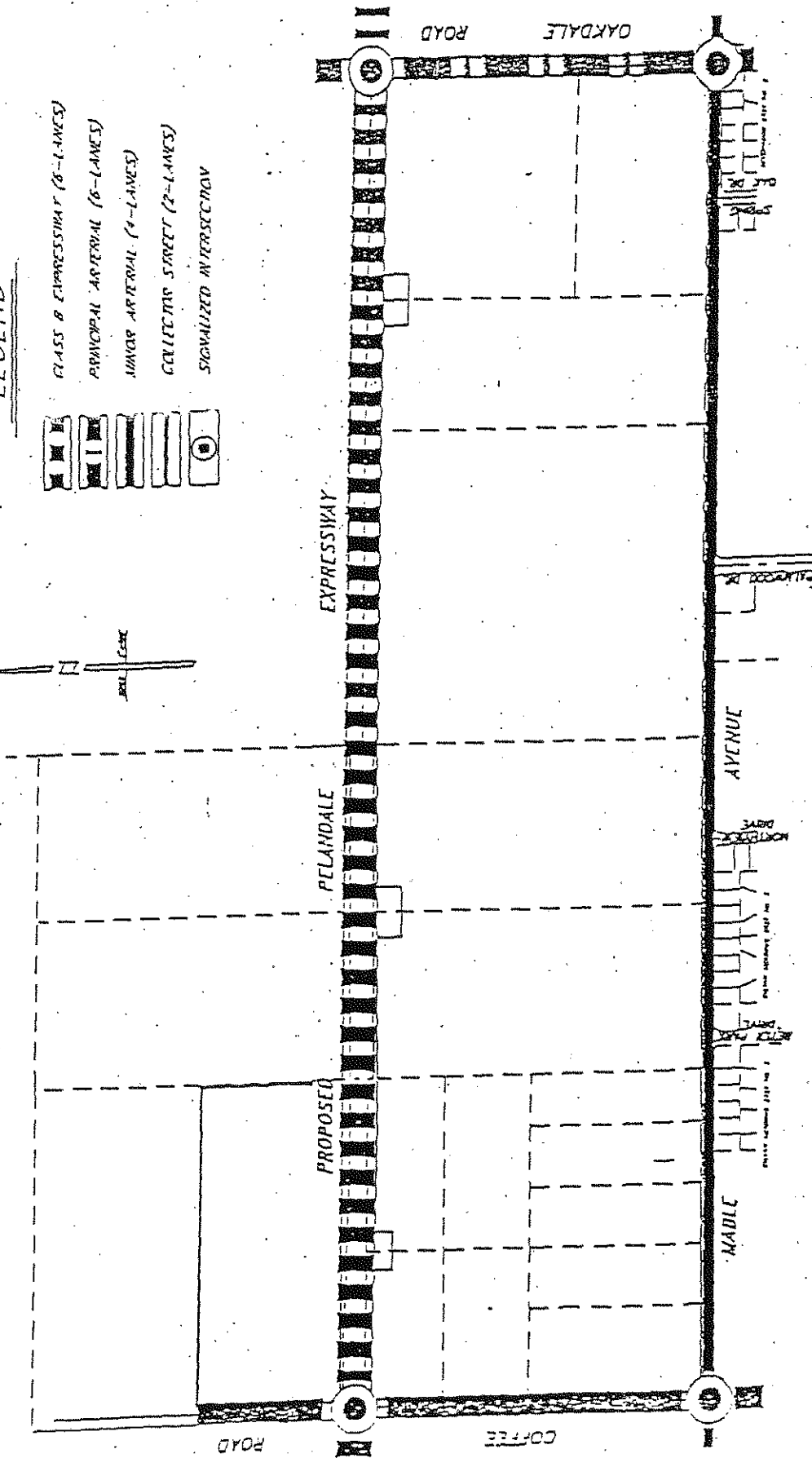
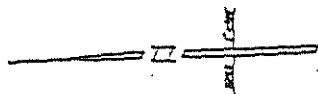


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INSERT # 14

LEGEND

- CLASS B EXPRESSWAY (8-LANES)
- ARTERIAL (6-LANES)
- MINOR ARTERIAL (4-LANES)
- COLLECTOR STREET (2-LANES)
- SIGNALIZED INTERSECTION



DTE: BIKE PATHS PER THE CITY'S NON-MOTORIZED TRANSPORTATION MASTER PLAN:
 CLASS I - PELANDALE EXPRESSWAY
 CLASS II - COFFEE AND OAKDALE ROADS

VEHICULAR CIRCULATION
 DIAGRAM
 FIGURE 5



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INSERT # 17

New Third and Fourth Paragraph
(Chapter 4; Section D)

While the Claratina Driving Range property has been added to the North Beyer Specific Plan to permit its immediate development as a church, it is more connected to the Hetch Hetchy CPD relative to the provision of future Master Storm Drainage, Sewer and other infrastructure. As such, while the Claratina Driving Range site may redevelop, paying for the cost of providing the services needed for the project today, consistent with City standards and policies, the Claratina Driving Range will be required to form a Mello-Roos Community Facilities District for the Hetch Hetchy CPD (the "CFD") prior to issuance of a building permit for a church use on the Claratina Driving Range property.

Prior to approval of a Final Development Plan for the redevelopment of the Claratina Driving Range property to a church, a Development Agreement, prepared consistent with the provisions of Government Code Section 65864 et. seq. shall be adopted. The Development Agreement shall, among other things, clarify the Claratina Driving Range property's obligation to participate in the formation of the CFD for the Hetch Hetchy CPD, and the financing of CFD improvements, before a building permit will be issued for a church on the Claratina Driving Range property. In addition to the financing issues, the Development Agreement is to address the following items:

1. A prohibition on school uses without further environmental review and City approval;
2. Future connections to Master Storm Drainage and Sewer Facilities;
3. Project Fees;
4. Well Site dedication and reimbursement;
5. Project contribution and reimbursement for the Coffee/Claratina Traffic Signal;
6. Access from the Claratina Driving Range property to the property to the east; and
7. A Site Access Study referred to in Chapter 3, Section D of this Specific Plan.

The list is not intended to be all inclusive, but rather representative of the items which shall be addressed in the Development Agreement.

City of Modesto

North Beyer Park Specific Plan

This document reflects all amendments to the
North Beyer Park Specific Plan, as of November 4, 1997

Amendments to the North Beyer Park Specific Plan

This document contains information from the original North Beyer Park Specific Plan adopted November 26, 1996, by City Council Resolution No. 96-641 as revised by the following Specific Plan Amendments:

SPA#1 Add Language to Allow Changes in Service Providers

Recommended by Planning Commission Resolution No. 97- 73
Adopted by City Council Resolution No. 97- 628

INSERT #1

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Chapter 1. Specific Plan Introduction

A. PURPOSE OF SPECIFIC PLAN

The North Beyer Park Specific Plan is a tool to guide the orderly development of land within the plan area. The purpose of the North Beyer Park Specific Plan is to implement the City of Modesto's General Plan as authorized by Section 65450 et. Seq. of the State Government Code. The Specific Plan provides a bridge between the General Plan's broad base goals and policies and the City's precise zoning and subdivision regulations. The North Beyer site is located within a "Comprehensive Planning District (CPD)", therefore in accordance with the City of Modesto's General Plan adopted policies the adoption of a Specific Plan is required prior to any development. This Specific Plan ensures that the city-wide effects of development projects, especially the need for providing adequate infrastructure, is addressed.

The Specific Plan was created using the City's guidelines for preparing comprehensive plans and following procedures for Specific Plans contained in Government Code Section 65453(b).

The Specific Plan area is within the North Beyer CPD and subject to the CPD policies and provisions of the City's General Plan (Exhibit III-15) which include:

1. Maximum of 1,200 dwelling units.
2. Implementing adopted City General Plan policies.

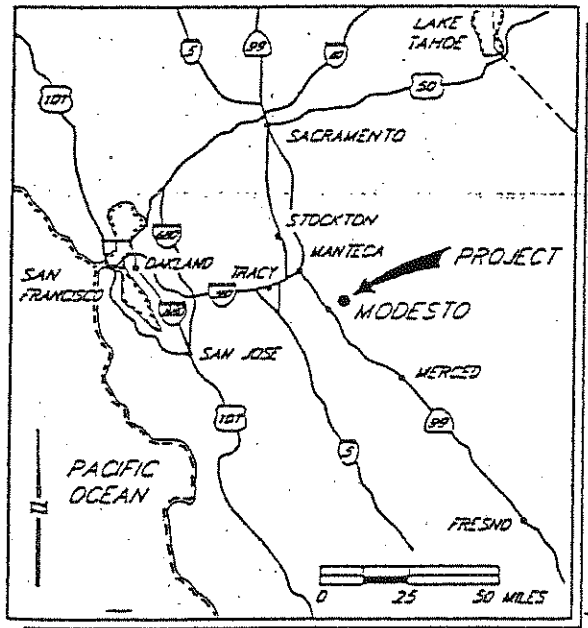
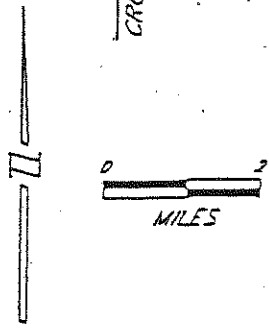
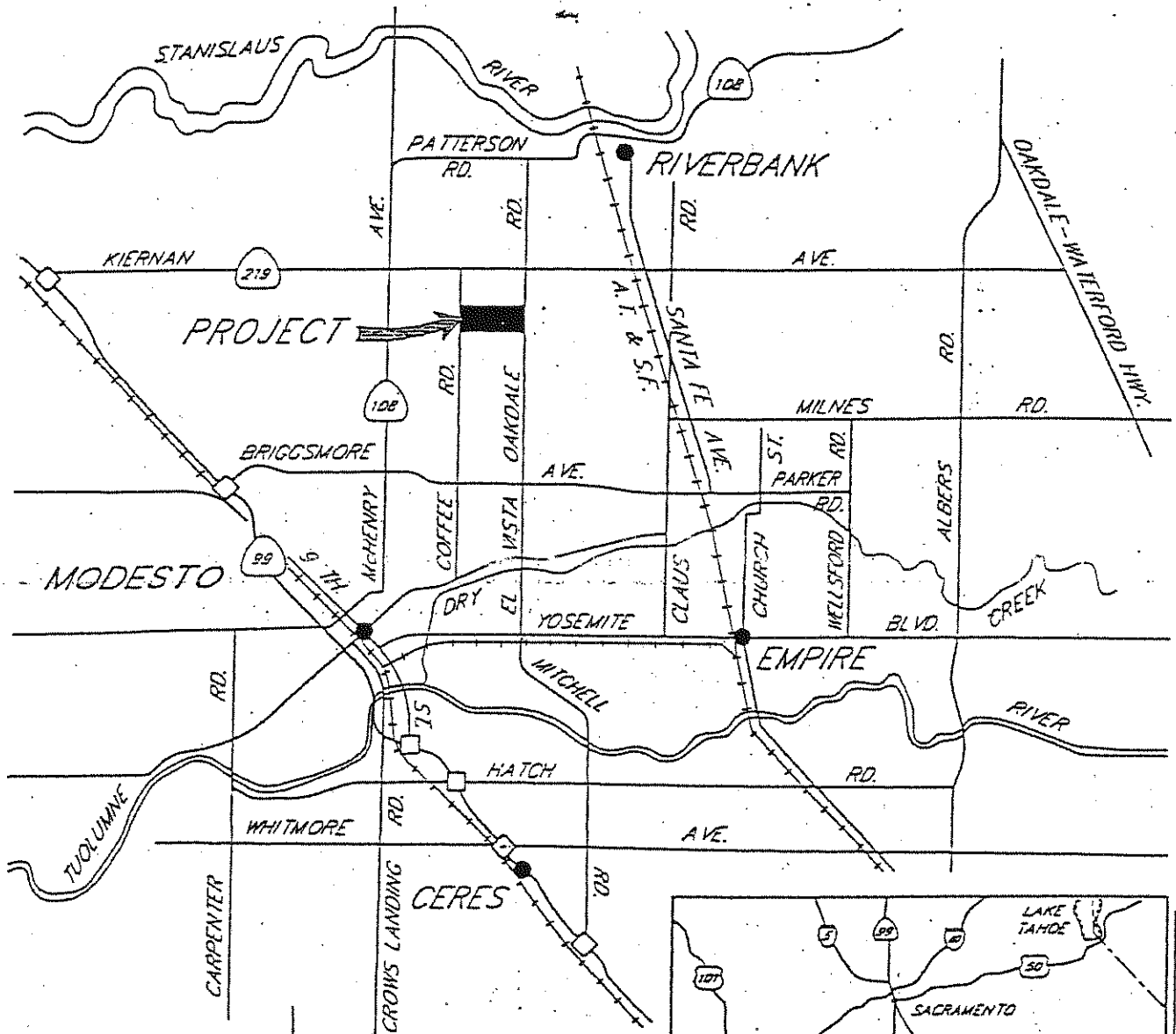
The North Beyer Specific Plan will guide development of land within the Plan area. The Specific Plan will implement Modesto's long-range objective of orderly growth by providing housing, shopping and professional offices for City residents.

B. PLAN AREA DESCRIPTION

The North Beyer Park CPD is located on the north side of Mable Avenue (See Figure 1). The site is bound by Coffee Road on the west, the extension of Claratina Avenue to the north and Oakdale Road on the east side. The project site contains approximately 160 acres.

The existing land use of the property is primarily agricultural with vineyard's occupying the middle portion of the site and peach orchards occupying about the eastern one-third of the site. There are three houses on the site, a Christmas Tree Farm, the Mable Avenue Baptist Church, and the Assyrian of the East Church. There are also barns and other farm buildings on-site.

INSERT # 2



PROJECT LOCATION
FIGURE 1



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INSERT # 3

1. Surrounding Land Use

The surrounding land uses are as follows:

North - (North of the Eastward Extension of Claratina Avenue) - Claratina Golf and Country Grill (Golf Course Driving Range) adjacent to Coffee Road, and agricultural uses (almond orchards, peach orchards, and vineyards).

South - (South of Mable Avenue all within the City of Modesto) - Vacant lot adjacent to Coffee Road, single family residences, Stockard Coffee Elementary School, Undeveloped 5 Acre City Park, City Fire Station #7, and Homewood Village Mobile Home Park.

East - (East Side of Oakdale Road) - Agricultural Uses - Almond orchards and a ranchette development.

West - (Opposite side of Coffee Road - The Claratina / Coffee Plan Area)- Silverwood Mobile Home Park, orchard, Exxon Mini-mart, existing residence and open field.

C. PLANNING PROCESS

Adoption of the Specific Plan and adoption of the North-Beyer Mitigated Negative Declaration establishes and defines the planning criteria and necessary mitigation measures that will be used to guide the subsequent stages of the established planning process, when initiated by private developers and public agencies, as follows:

- Tentative Subdivision Map Application
- Land Use and Site Design Review, Where Applicable

A discussion of each of these subsequent components of the planning process following Specific Plan adoption is found in the Implementation Element of the Plan (Chapter 4).

D. STATUTORY AUTHORITY

A Specific Plan is a policy document used to implement the "Comprehensive Planning District" concept presented in Section III-D of the City's General Plan. The General Plan acknowledges specific plans (as defined by Section 65450 of the California Government Code) as an appropriate form of comprehensive plan to implement CPD policies. Specific Plans are authorized under Section 65450 of the Government Code for the systematic implementation of all or part of a general plan.

The North Beyer Specific Plan is intended to facilitate development within the Plan area by: 1) defining the types and distribution of land uses and the location and type of infrastructure, 2) setting development standards, and 3) documenting financing of public improvements. The Specific Plan has been prepared in accordance with the California Government Code. Section 65451 mandates that a specific plan include, at minimum, text and diagrams to describe the following:

1. The distribution, location and extent of land uses, including open space, within the plan area.
2. The proposed distribution, location, extent, and intensity of major components of public and private transportation, sewage, water, drainage, solid waste, energy, and other essential facilities proposed to be located within the plan area and needed to support land uses described in the specific plan.
3. Standards and criteria by which development will proceed and standards for the conservation, development, and utilization of natural resources, where applicable.
4. A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to implement the specific plan.
5. A statement of the relationship between the specific plan and the city's general plan.

E. RELATIONSHIP OF THE SPECIFIC PLAN TO THE GENERAL PLAN

The City adopted its current General Plan and certified the Master EIR in August 1995. The General Plan identified 25 Comprehensive Planning Districts, including North Beyer, within the City's Planned Urbanizing Area. Collectively, the CPDs cover 17,600 acres and represent the City's major urban growth area. The City's General Plan contains a comprehensive range of goals and policies to manage future growth in these districts. In addition to overall community development policies affecting all CPDs (Chapter III), the City's General Plan includes policies for developing its community services and facilities (Chapter V), and managing the City's environmental resources and open space (Chapter VII).

A General Plan Amendment will be required to revise the North Beyer Comprehensive Planning District text and map, Exhibit III-15, to allow the projects proposed non-residential uses. These proposed uses are consistent with the Neighborhood Plan Prototype Policies of the General Plan, Policy III-C-2, and a General Plan amendment will be adopted concurrently with this Specific Plan adoption.

INSERT # 4

F. SPECIFIC PLAN ADOPTION

Adoption of the North Beyer Specific Plan and adoption of the Mitigated Negative Declaration establishes the standards, criteria, and mitigation measures for tentative and final subdivision map approval, rezoning, and development of the Plan area.

Should any regulation, condition, program, or portion of this Specific Plan be ruled invalid or unconstitutional by a California or federal court of competent jurisdiction, such portions will be deemed separate, distinct, and independent provisions. The invalidity of these provisions will not affect the validity of the remaining portions of the Specific Plan or Mitigated Negative Declaration.

G. CEQA REVIEW

The North Beyer Specific Plan has received environmental review under the California Environmental Quality Act pursuant to the City's General Plan Master EIR (SCH #92052017) through the preparation of an Initial Study leading to adoption of a Mitigated Negative Declaration (CEQA Section 21157.5). A 30 day public review period was provided for the Mitigated Negative Declaration which included the Specific Plan document. Because earlier analysis was performed on the project area for substantially similar uses, Stanislaus County LAFCo Staged EIR (SCH #91102032), a Mitigated Negative Declaration per CEQA Section 21157.5 rather than a Focused EIR was used.

Project adoption will include a General Plan Amendment exempting the North Beyer Specific Plan from the requirement for preparation of a Focused EIR, Policy III-D-1-g.

INSERT # 5

Chapter 2. Development Policies and Standards

A. LAND USE (SEE FIGURE 2)

1. General Plan Policies

North Beyer Park will be developed in compliance with applicable City General Plan community development, CPD, and related policies. Since the Plan Area is the remaining undeveloped portion of an existing developed neighborhood, land use policies relative to the development of existing neighborhoods apply. City General Plan policies regarding land uses implemented through the Specific Plan are: Overall land use policies based on the City's zoning code, Title X of the Modesto Municipal Code (Section III-C(1)), "Neighborhood Plan Prototype" Policies (Section III-C(2)), and the North Beyer Park Specific Plan. City General Plan policies for providing community services and facilities, maintaining public safety, and managing environmental and open space resources are included in subsequent chapters of this Specific Plan.

2. The Specific Plan Overlay Zone

The purpose of the SP-O Zone is to permit development within the North Beyer Specific Plan area under Title X of the Modesto Municipal Code and any exceptions as defined in the Specific Plan.

The City Zoning map, as allowed by Section 10-2.305 of the Modesto Municipal Code, "The Zoning Map", shall indicate SP-O zoning for the area of the North Beyer Specific Plan.

3. Subsequent Exceptions to Development Regulations

The Planning Commission may grant exceptions to any of the development regulations listed in this chapter, by resolution, based on the following considerations:

- a. **Exception Guidelines.** Exceptions may be granted to achieve the following purposes:
 1. To encourage creative and efficient land uses.
 2. To encourage mixed or multiple-use projects.
 3. To permit variations from the density, height, and other standards in the various zones.

4. Residential (R)

The R designation accommodates single family residential uses. The maximum permitted density for an overall land use area is 7.5 dwelling units acre. Areas designated R utilize the City's R-1 zone as its development regulations with the following exceptions: Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1200 dwelling unit maximum is not exceeded. The existing churches and the Middle School site are designated R in the General Plan which is consistent with City policy.

5. Mixed Use (MU)

The mixed use designation applies to a 10-acre site at the southeast corner of the Coffee Road and Claratina Avenue intersection and also a 14-acre site at the southwest corner of the Oakdale Road and proposed Pelandale Expressway intersection, which would allow a possible neighborhood shopping center at both locations. Professional Office uses are proposed for the area at the northeast corner of the Coffee Road and Mable Avenue intersection. A Stanislaus County approved 50,000 square foot office building, known as "The Arbors", has been planned for this site. Also permitted in the Mixed Use area are R-3, R-2 and R-1 uses according to the City's Zoning Code. To develop non-residential areas as residential uses in excess of 1200 total dwelling units requires a General Plan Amendment. For each of the two Mixed-Use / Neighborhood shopping centers, plot plan approval by the Planning Commission shall be required prior to development. Performance standards deemed necessary by the Commission shall be required at that time.

6. Middle School (MS)

This designation is intended to allow development of a 18.50 acre Middle School facility for the Sylvan Union School District.

7. Storm Drainage (SD)

This designation is intended to permit development for storm drainage facilities to service the project area including basins and related facilities.

9. ~~8~~ Land Use Regulations

INSERT # 6

The City of Modesto's Title X Planning and Zoning Code latest edition, is hereby adopted and incorporated by reference into the North Beyer Park Specific Plan, as the Plan's land use regulations and development standards. All development projects shall be subject to the zoning provisions that are current at the time of application. The City may grant exemptions from the certain Code provision at it's discretion in order to implement the Plan.

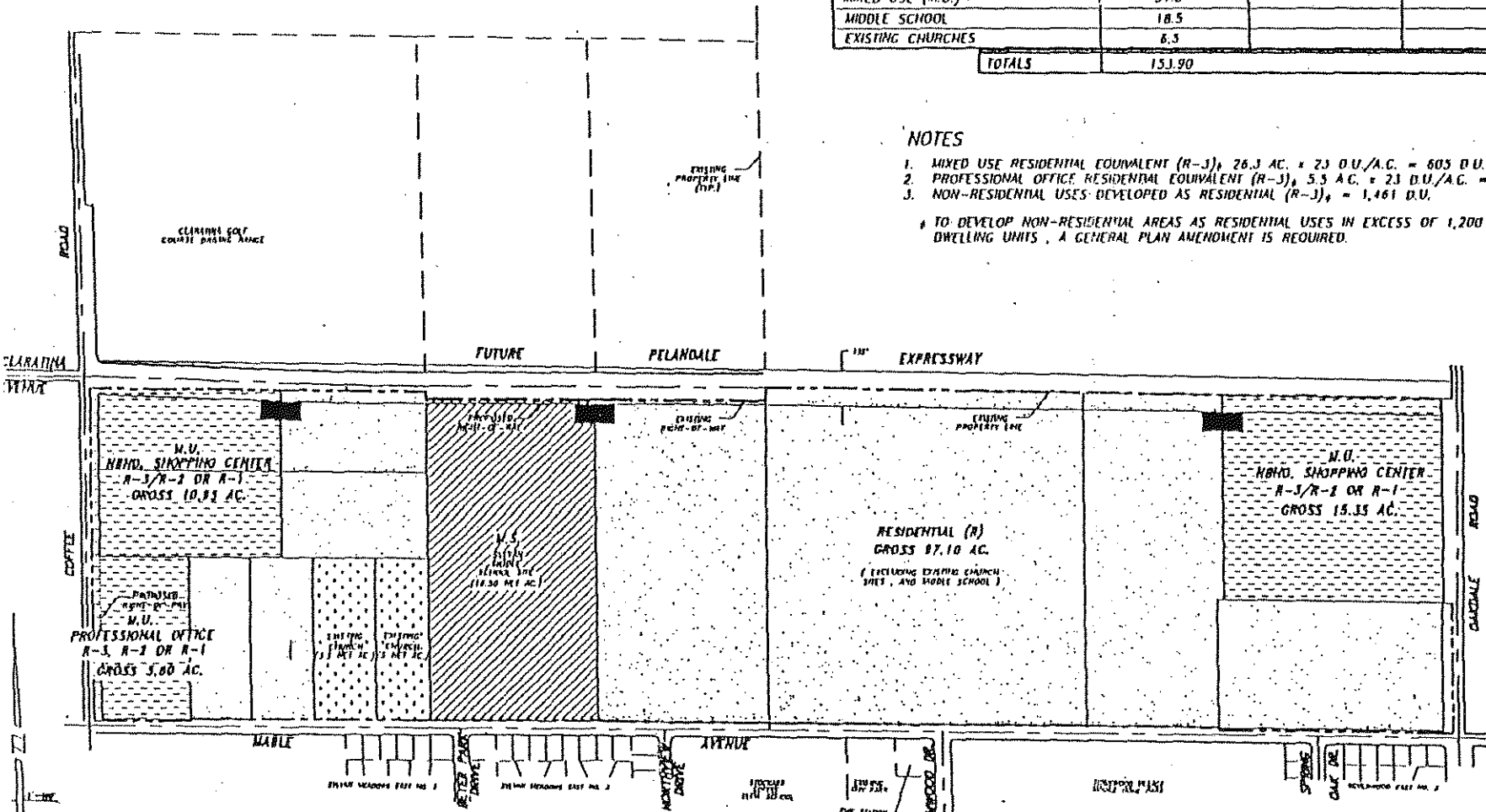
10.
§. Improvement Standard Regulations

The City of Modesto Department of Public Works Standard Specifications are hereby adopted and incorporated by reference into the North Beyer Park Specific Plan as the Plan's Development Standards. All development projects shall be subject to the Standard Specifications that are current at the time of application. The City may grant exemptions from the certain code provisions at its discretion in order to implement the plan.

LAND USE	GROSS AC.	DENSITY	TOTAL DWELLING UNITS
RESIDENTIAL			
RESIDENTIAL (R)	97.1	7.5 DU'S/AC	729
MIXED USE (M.U.)*	31.8		
MIDDLE SCHOOL	18.5		
EXISTING CHURCHES	6.3		
TOTALS	153.90		729

NOTES

1. MIXED USE RESIDENTIAL EQUIVALENT (R-3), 26.3 AC. x 23 D.U./A.C. = 603 D.U.
 2. PROFESSIONAL OFFICE RESIDENTIAL EQUIVALENT (R-3), 5.3 AC. x 23 D.U./A.C. = 127 D.U.
 3. NON-RESIDENTIAL USES DEVELOPED AS RESIDENTIAL (R-3), = 1,461 D.U.
- * TO DEVELOP NON-RESIDENTIAL AREAS AS RESIDENTIAL USES IN EXCESS OF 1,200 TOTAL DWELLING UNITS, A GENERAL PLAN AMENDMENT IS REQUIRED.



LEGEND

- PLAN AREA BOUNDARY
- PROPERTY OWNERSHIP LINE
- [Pattern] M.U. - MIXED USE, MHD SHOPPING CENTER, PO, R-3, R-2 OR R1
- [Pattern] R - RESIDENTIAL (R-1)
- [Pattern] M.S. - MIDDLE SCHOOL
- [Pattern] EXISTING CHURCH SITES
- [Pattern] SD - STORM DRAINAGE BASINS



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LAND USE DIAGRAM
FIGURE 2

INSDPT # 7

Chapter 3. Public Facilities

A. OVERVIEW

The North Beyer Park Plan area infrastructure system is an extension of the existing neighborhood area's infrastructure. Buildout of the plan area was planned for as part of the existing neighborhood planning areas. This chapter describes development of the transportation and circulation, wastewater collection, water delivery, storm water drainage, utilities (electricity, street lighting, natural gas, telephone, cable television, irrigation), schools, and parks and recreation necessary to support development in the Plan Area. Improvement of North Beyer infrastructure will be as described in the General Plan policies in Chapter V, Community Services and Facilities.

B. INFRASTRUCTURE PLAN

INSERT # 8

The North Beyer Park Infrastructure Plan is shown on Figures 3 and 4, and incorporated into this Specific Plan. The figures serve as a design schematic for the planning area infrastructure and does not represent specific alignments or locations for facilities. The figures indicate the preliminary sizing and design for backbone infrastructure in the planning area. Exact phasing and design will be determined as development occurs. Prior to the recording of subdivision maps, improvement plans consistent with the general design in this Specific Plan shall be approved by the City.

1. Sanitary Sewer Service (See Figure 3)

The existing 18" subtrunk sewer main at Coffee Road at Sylvan Meadows Drive will be utilized to serve the North Beyer Park Plan Area. A sewer lift station must be installed in order to obtain the depth required to accommodate the expected construction and build-out of the Plan Area. A "sub-trunk" sewer line must be extended from the pump station north up Coffee Road to the proposed Claratina Expressway, and then extending east down the Expressway to serve the North Beyer Park project. The pump station and "sub-trunk" sewer system in Coffee Road will be sized to serve both the North Beyer Park Plan Area and the Claratina / Coffee Plan Area. The "sub-trunk" system and sewer lift station and force main shall be funded by the City with fees collected for that purpose.

INSERT # 9

2. Storm Drainage (See Figure 4)

A positive storm drainage system comprised of catch basins, pipelines and storm drain basins is proposed to serve this project. The storm drain basins will be constructed as development occurs. The storm drain collection system and basins will be designed in accordance with the City of Modesto and Stanislaus County Standards and specifications.

INSERT # 10

3. Water (See Figure 3)

City water service will be provided to the entire plan area through connection to the existing water mains in Mable Avenue. An existing 10" water main and a 24" transmission water main which lie in Mable Avenue are part of a larger looped water system designed to serve the entire Plan Area. All private wells shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Services Standards.

INSERT # 11

C. TRANSPORTATION AND CIRCULATION

1. Overview

The North Beyer Park Plan Area circulation system represents a logical extension of the City's existing arterial and collector street system as specified in the General Plan. The location and classification of streets within this extended street system is shown on Figure 5, Vehicular Circulation Diagram. The plan provides for the dedication of right-of-way (R.O.W.) that is required within North Beyer Park for the proposed Pelandale Expressway. Additional dedication will be necessary for the expressway which will be required by the properties north of the Plan Area as future development occurs. The Specific Plan and Mitigated Negative Declaration preparation included a traffic analysis performed under the direction of the City of Modesto Public Works and Transportation Department.

2. Specific Plan Street Classifications

Table 2 (below) Specific Plan Street Classifications, describes the streets which are a part of the North Beyer Park Plan Area. The street classifications correspond to Public Works Standards. Street cross-sections shall conform to Public Works Standards and policies with the following exception, the Pelandale Expressway shall correspond to Schematic Section, Figure 8, on Page 2-11 of the Pelandale / Snyder Final Specific Plan.

Table 2 - Specific Plan Street Classifications

Street / Classification	Street R.O.W.
Class B Expressway (Pelandale Expressway)	135 Feet*
Principle Arterial (Oakdale Road)	114 Feet*
Minor Arterial (Coffee Road)	100 Feet*
Collector Street (Mable Avenue)	60 Feet*
Minor Residential Street	50 Feet

* Additional right-of-way may be required at intersections per City of Modesto Standard Specifications.

- a. **Class B Expressway - Claratina Avenue** is designated as an expressway in the General Plan. Public Works analysis has determined Claratina Avenue to be an eastward extension of the Pelandale Expressway to be developed to a 135' Class B Expressway. The Expressway will ultimately connect from Highway 99 to the Claus Road Expressway. The expressway shall include a Class I Bike Trail that will link up with the Claratina and Claus Road trails consistent with the City of Modesto's Non-Motorized Transportation Master Plan. As property owners develop within the Plan Area they will be required to dedicate right-of-way for the expressway and construct a sound wall along the property adjacent to the expressway. The City will be responsible for all improvements on the Pelandale Expressway except for the soundwall which will be the developers responsibility. The City will reimburse the developer the cost of 12' of right-of-way. Pelandale Expressway will be improved per Schematic Section, Figure 8, Page 2-11, Pelandale / Snyder Final Specific Plan.
- b. **Arterial Streets** - The extensions of two arterial streets, Coffee Road and Oakdale Road are part of the City's circulation system. Coffee and Oakdale Roads shall include a Class II Bike Lane consistent with the City of Modesto's Non-Motorized Transportation Master Plan. Coffee Road will be improved as a 100' minor arterial and Oakdale Road will be a 114' principle arterial per Public Works Standards.
- c. **Collector Streets** - Existing Mable Avenue is the only 60' collector street crossing the Plan Area. Mable Avenue will connect Coffee and Oakdale Roads.
- d. **Minor Residential Streets** - Minor residential streets provide internal neighborhood circulation while minimizing through traffic. This street network will be determined at the time each individual property owner develops. No connection will be permitted between minor residential streets and the proposed Claratina Expressway through the planned residential areas.

D. TRAFFIC CIRCULATION SYSTEM ANALYSIS

The following outline shows general traffic circulation system improvement needs anticipated for the next 30 years based on the Traffic Impact Analysis prepared by kdAnderson Transportation Engineers. These needs cover areas adjacent to and outside the project area. A majority of these improvements would be needed even without this project. A listing of these needs does not indicate the project responsibility which can be found in Chapter 4, Implementation and Financing.

Concurrent with Project Development (1-5 Years) —

<u>Facility</u>	<u>Impact (Level of Service)</u>	<u>Recommended Improvements</u>
Coffee / Claratina Intersection	LOS F	Signals needed plus four lane improvements
Coffee / Mable Intersection	Future Turning Movements	Provide adequate setbacks and dedication at northeast corner for future intersection turn lanes
Pelandale Expressway	LOS Degraded on Surrounding Roadways	Dedicate right-of-way along adjacent projects per Specific Plan
Fronting roadways of development: Coffee Road Oakdale Road Mable Avenue	LOS is degraded	Dedicate and improve roadway to City Standards along fronting projects

5 Years (Phase 1 of Project)

<u>Facility</u>	<u>Impact (Level of Service)</u>	<u>Recommended Improvements</u>
Coffee / Mable Intersection	LOS F	Signals needed plus improvements per study
Fronting roadways of development: Pelandale Expressway Coffee Road Oakdale Road Mable Avenue	LOS is degraded	Dedicate and improve roadway to City Standards along fronting projects. Pelandale Expressway improvements per Specific Plan.

Year 2025 (Project Buildout)

<u>Facility</u>	<u>Impact (Level of Service)</u>	<u>Recommended Improvements</u>
Coffee / Claratina Intersection	LOS E	Three through lanes needed and upgrade signals
Coffee / Sylvan Intersection	LOS D	None
Oakdale / Sylvan Intersection	LOS C	Dedicate and improve to City Standards
Coffee / Mable Intersection	LOS E	Dual southbound turn lanes if no mid-block median break on Coffee Road
Oakdale / Mable Intersection	LOS B	Signals needed
Pelandale Expressway	LOS F at intersections	Six through lanes needed per North Beyer Park Specific Plan.
Fronting roadways of development: Coffee Road Oakdale Road Mable Avenue	LOS is degraded	Dedicate and improve roadway to City Standards along fronting projects

E. SCHOOLS

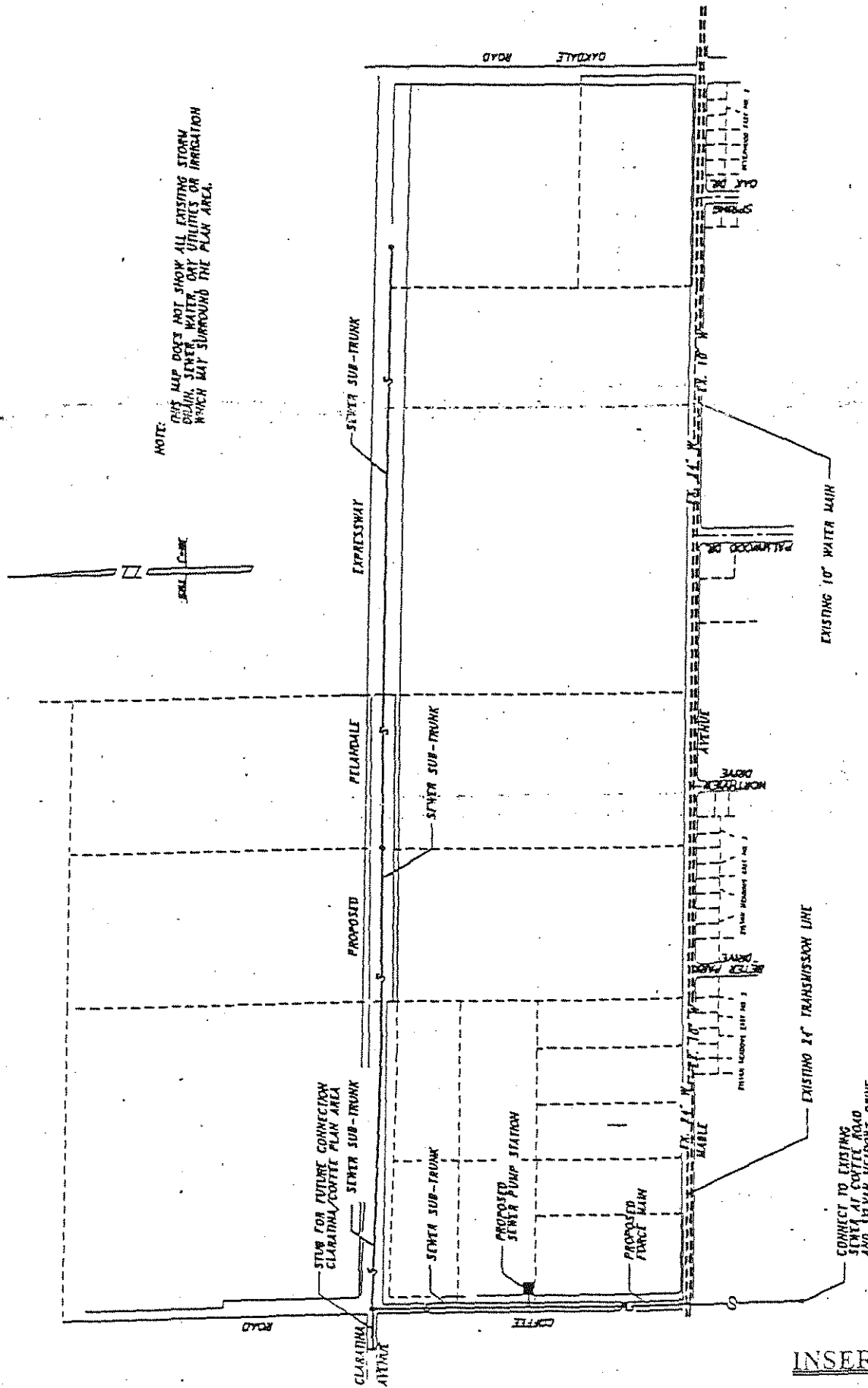
The North Beyer Park project will be served by the Sylvan Union School District for grades Kindergarten (K) through 8, and by the Modesto High School District for 9-12. The North Beyer Park Plan Area is proposing a 18.50 net acre middle school site as shown on the Land Use Diagram (Figure 2). The school site will have a west orientation facing the existing church sites. As stated in the City's General Plan (Policy VH.3.i, Page V-25), the City considers impacts on public school capital facilities fully mitigated when it receives a letter stating that the school district and project proponent have resolved school impacts and the means by which they are resolved. One project (approximately 55 acres of residential) within the North Beyer Park Plan Area has already annexed to the CFD.

F. PARKS

In Modesto, open space is provided through a comprehensive network of regional, community and neighborhood parks. The North Beyer Park Specific Plan is the remaining portion of an existing neighborhood and lies within Park Planning Area No. 9 as shown on Figure V-5 of the General Plan. There are existing and planned parks within the neighborhood. Payment of capital facilities fees will mitigate the projects impact to parks and open space demand in the area.

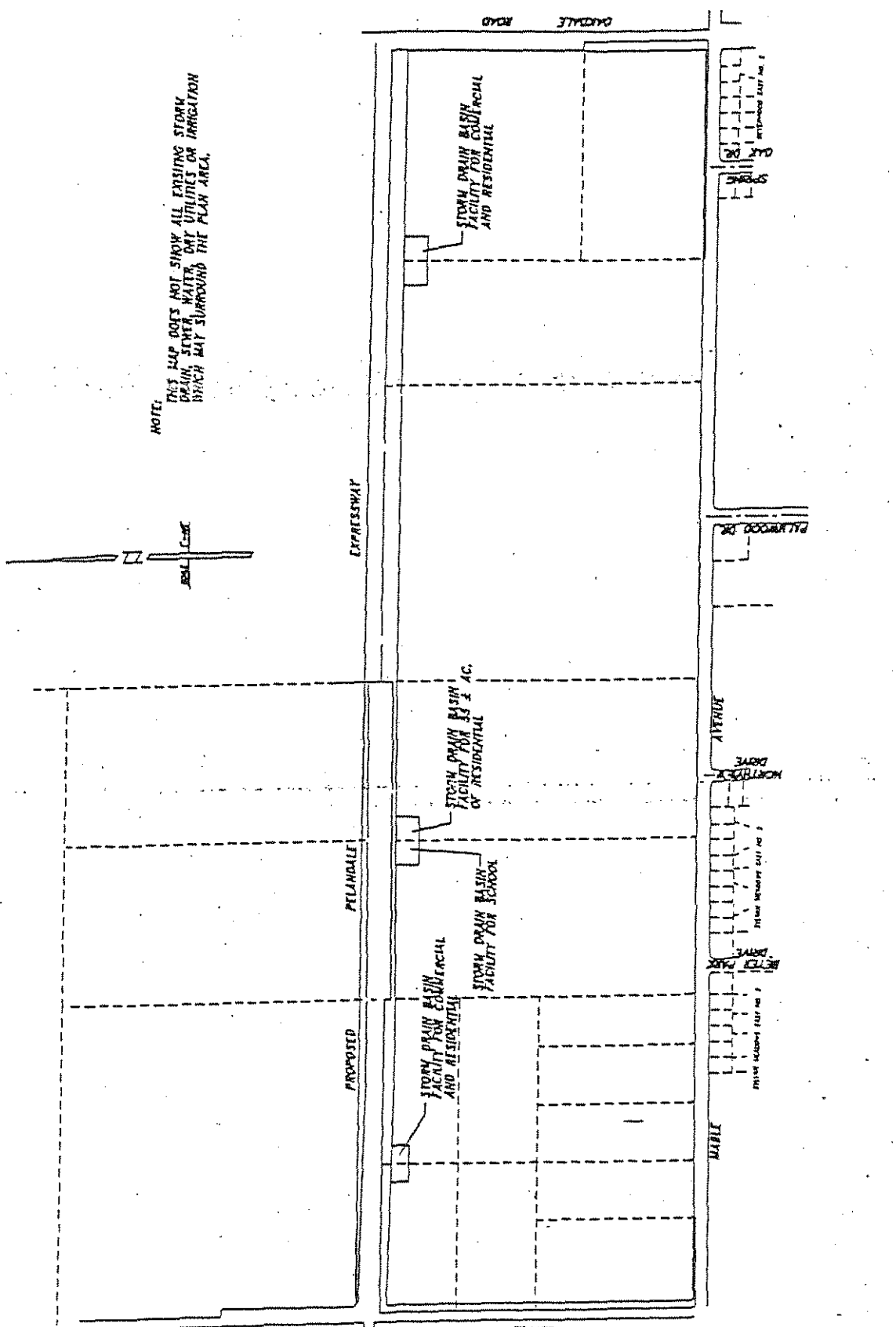
SANITARY SEWER AND WATER INFRASTRUCTURE

FIGURE 3

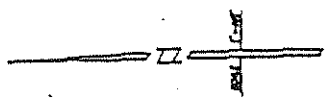


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INSERT #13



NOTE:
 THIS MAP DOES NOT SHOW ALL EXISTING STORM
 DRAIN, SEWER, WATER, GAS UTILITIES OR IRRIGATION
 WHICH MAY SURROUND THE PLAN AREA.








**STORM DRAIN
 INFRASTRUCTURE**
 FIGURE 4

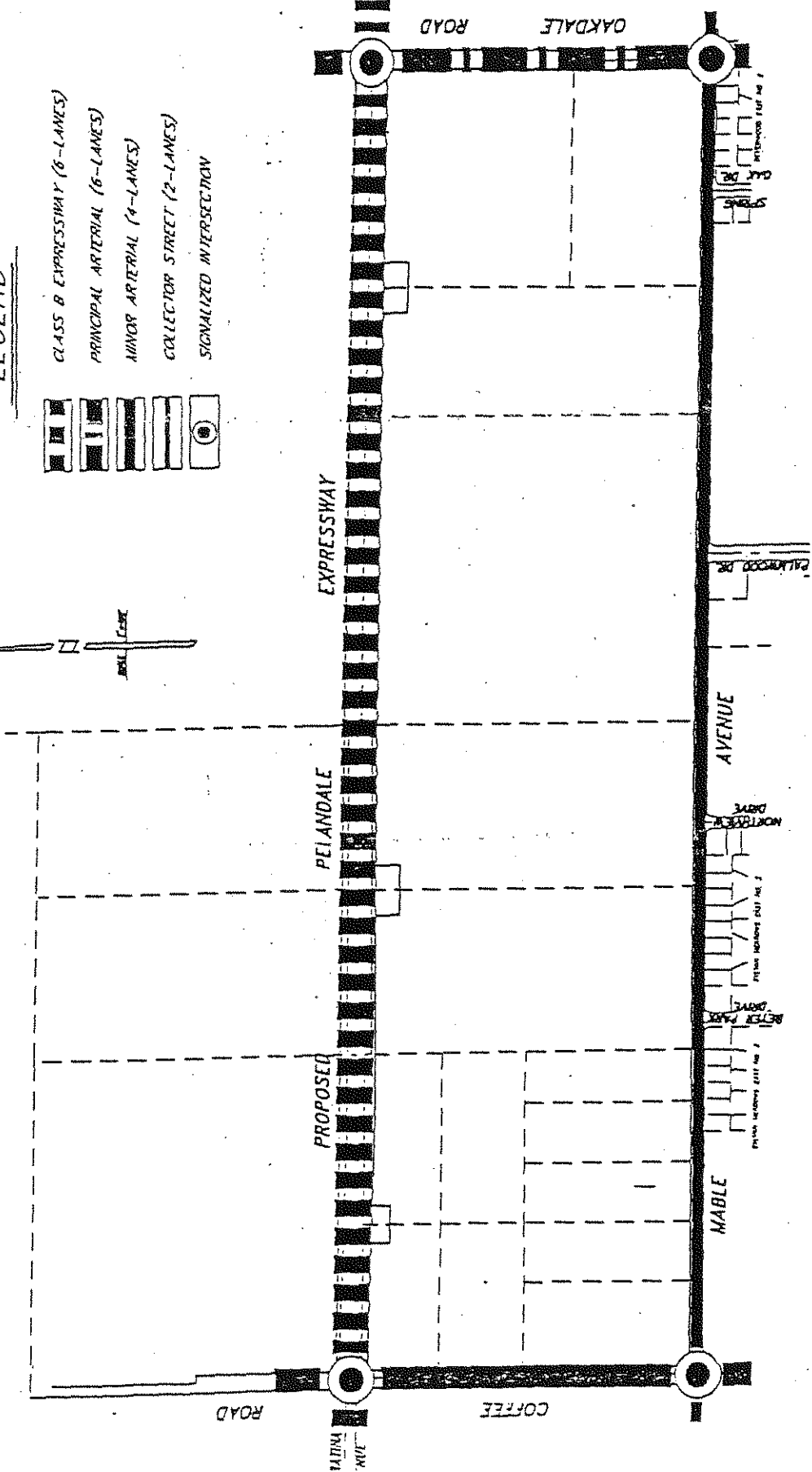
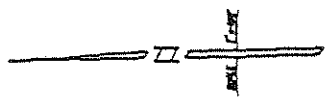


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INSERT #14

LEGEND

-  CLASS B EXPRESSWAY (6-LANES)
-  PRINCIPAL ARTERIAL (6-LANES)
-  MINOR ARTERIAL (4-LANES)
-  COLLECTOR STREET (2-LANES)
-  SIGNALIZED INTERSECTION



NOTE: BIKE PATHS PER THE CITY'S NON-MOTORIZED TRANSPORTATION MASTER PLAN:
 CLASS I - PELANDALE EXPRESSWAY
 CLASS II - COFFEE AND OAKDALE ROADS



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VEHICULAR CIRCULATION
 DIAGRAM
 FIGURE 5

Chapter 4. Implementation and Financing

A. PLAN IMPLEMENTATION

The following defines the implementation measures that will guide development within the Plan Area.

1. Action required for implementation of the North Beyer Park Specific Plan

The following actions are required prior to development of land uses proposed in the Specific Plan:

- a. Approval of tentative and final subdivision maps.
- b. Approval of land use and site design review, where applicable.

2. Tentative and Final Subdivision Map Approvals

Implementation of residential uses in the Plan Area will require processing of a tentative map. The tentative map process is governed by the City's Subdivision Ordinance and the State Subdivision Map Act (Sections 66410 et seq.). Tentative and Final Subdivision Map approval requires conformance to the requirements of the Specific Plan and Mitigated Negative Declaration for the Specific Plan.

3. Specific Plan Amendment Process

Any amendments to Specific Plans shall be in accordance with Section 65453 of the Government Code which provides the amendment procedure for Specific Plans.

B. IMPLEMENTATION POLICIES

The following policies will be used to implement the long range financing strategy:

1. Unless specifically excepted, each property owner shall finance and construct improvements as specified in the Specific Plan, and in accordance with the City of Modesto Standards which occur directly on their property.
2. The referenced improvements will be sized by each property owner, in accordance with the Specific Plan. In the event that the properties develop out of sequence, each property owner is required to provide easements and access that may be necessary to install facilities for the benefit of the other property owners. Each property owner will reimburse

the other(s) for their oversize expenses at the time of filing the first final map within each development, building permit or connection to the system whichever occurs first.

3. The existing city-wide and County fees for new construction will prevail for development within the Plan Area and are intended to pay for the improvements as specified in this Specific Plan.
4. Property owners may receive credits to the payment of city-wide and County fees to the extent that there exists any duplication of improvements provided by the property owner versus improvements intended by the fee structure.
5. Accounting for facility oversizing will be the responsibility of the property owners, in conformance with City Policies and Standards. Repayment will be enforced by the City by being part of the City's requirement for the subdivision map filing. Disputes among property owners will be subject to binding arbitration by a member of the American Arbitration Association (AAA). Outstanding balances for oversizing will be subject to 10% annual interest, payable by the benefiting "downstream" property owner at the time of final map filing, building permit or connection to the system whichever occurs first.
6. To the extent permitted by law, the costs of developing the Specific Plan, including but not limited to traffic studies, noise studies and environmental documentation, shall be reimbursed by property owners in the Specific Plan to the property owners in the Specific Plan who have fronted those costs. Reimbursement shall be pursuant to City of Modesto Ordinances and Policies. The existing church sites within the Specific Plan shall not be responsible for the costs associated with the development of the Specific Plan. Disputes among property owners will be subject to binding arbitration by the American Association of Arbitrators (AAA).
7. The City shall require dedication of land for road improvements and construction of arterial and collector street improvements consistent with city-wide policies and regulations.
8. Reimbursement for oversizing utility lines and roadway improvements shall also be consistent with city-wide policies and regulations.

C. CEQA MITIGATION MONITORING

CEQA Section 21081.6 requires the public agency approving a project to adopt a reporting or monitoring program for mitigation measures made conditions of project approval. The North Beyer Park Specific Plan complies with this requirement by incorporating the mitigation measures from the North Beyer Mitigated Negative Declaration (project CEQA review document) into the Specific Plan as development policies and/or standards. These measures are thus fully enforceable with project approval.

INSERT # 16

D. FINANCING

A long range financing strategy for the North Beyer Park Plan Area is provided as part of this Specific Plan, both in accordance with State Government Code Requirements and with the City of Modesto Urban Area General Plan Policy.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with individual project development. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. The City of Modesto does require Specific Plans to provide for the installation and maintenance for certain public facilities as identified below (See Item E.2.b on Page 4-4) through participation in a City Mello-Roos Community Facilities District.

INSERT # 17

E. FUNDING METHODS

The infrastructure element of the North Beyer Park Plan Area describes a number of community facilities necessary to implement the plan. The following funding sources will be used to cover the costs of those facilities. All interior infrastructure shall be installed by individual property owners as projects develop:

1. Pelandale Expressway

- a. Funding Source: City of Modesto's Capital Facilities Fee Program (CFF).
- b. Net cost to City: None. City wide fees will provide financing for these improvements.
- c. Developer to dedicate right-of-way and construct sound wall.
- d. The City will reimburse the developer the cost of 12 feet of right-of-way.
- e. The City is responsible for all improvements of the Pelandale Expressway except the soundwall which is the developer's responsibility.

**2. Principle / Minor Arterials
(Coffee and Oakdale Roads)**

- a. Funding Source: Existing City wide fees and individual property owner/developer's requirements.
- b. Medians and landscaping setbacks along soundwalls.
Funding Source: City Mello-Roos Community Facilities District.
- c. Net cost to City: None. Existing City policies govern the dedication of land for road improvements and requires developers of a given road frontage to construct the first 40' of the road improvements measured from the property line. The City would be responsible for any improvements required beyond the 40'.

**3. Collector Street (Mable Avenue) /
Minor Residential Streets**

- a. Funding Source: Individual property owners/developers shall be responsible for street improvements adjacent to their property.
- b. Net Cost to City: None. Development will provide financing for these improvements.

4. Water

- a. Funding Source: Existing City wide user fees and Developer Requirements.
- b. Net Cost to City: None. The existing water distribution lines in Mable Avenue will be utilized to serve the North Beyer Park Plan Area. The Plan Area shall be subject to the typical City of Modesto water related fees (i.e. water systems fee, water meter fee, water connection fee, etc.) which are applicable to each individual property owner/developer at the time of development.

**5. Sanitary Sewer (Pump Station,
Force Main and Sub-Trunk System)**

- a. Funding Source: City Sub-trunk sewer fee which is designated to fund sub-trunk sewers. City sewer bond redemption charge which includes a component for lift stations.
 - b. Net Cost to City: None. City wide user fees as described above are sufficient to pay for needed sewer infrastructure facilities.
-

6. Storm Drainage

- a. Funding Source: Each individual property owner/developer shall be responsible for installation of infrastructure improvements (i.e. main storm drain trunk system, storm drain basin) which are required for development of their property and are in accordance with this Specific Plan.
- b. Net Cost to City: None. Development will provide financing for these improvements.

7. Schools

- a. Funding Source: Separate agreement with school district or annexation into the Village One Schools Infrastructure Financing Agency (SIFA CFD 1994-1).

School impacts shall be considered mitigated when the project is annexed to the Schools Infrastructure Financing Agency or has executed a developer fee agreement with Modesto City Schools. As of this date, only four parcels have not completed the mitigation process; A.P.N. 52-05-18, A.P.N. 52-05-20, A.P.N. 52-05-21, and A.P.N. 52-05-22. Compliance with this policy shall be a condition on any final map which includes these parcels.

- b. Net Cost to City: None. The individual property owners/developers shall reach full agreement with Modesto City Schools and the Sylvan School District to insure funding and to mitigate impacts to the school districts.

8. Parks - None Are Required Within the Plan Area

- a. Park fees will be paid within the North Beyer Park Plan Area.
- b. Net Cost to City: None. City wide fees and development will provide financing for park improvements.

F. UTILITIES

Following are the agencies and organizations which were providing services to the project area at the time the Specific Plan was originally adopted. Subsequent changes in service responsibilities may occur without affecting the validity of the Specific Plan. The City intends that adequate service will be provided to the project area, irrespective of the organization providing that service.

Electricity - Electricity to the Plan Area shall be provided by the Modesto Irrigation District (MID).

Street Lighting - Street lighting shall be provided along the streets per Public Works Standards as individual properties develop.

Natural Gas - Natural gas service shall be provided by Pacific Gas and Electric (P.G. & E.).

Telephone - Telephone service shall be provided by Pacific Bell.

Cable Television - Television service shall be provided by Post Newsweek Cable.

Irrigation - Irrigation service is currently provided by the Modesto Irrigation District and, existing irrigation facilities will be abandoned and/or relocated as properties develop.

G. INFRASTRUCTURE COST SHARING

Developers that install oversized facilities consistent with this Specific Plan and benefitting other parts of the Plan Area shall be reimbursed. The cost of infrastructure improvements shall be distributed throughout the Plan Area based on a project's relative benefit. A reimbursement agreement or some other form of reimbursement method shall be secured at the appropriate time in the approval process (prior to the recordation of a final map).

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-103**

**A RESOLUTION OF APPLICATION TO THE STANISLAUS LOCAL AGENCY
FORMATION COMMISSION TO ANNEX 17.4 ACRES OF PROPERTY LOCATED ON
THE NORTHEAST CORNER OF COFFEE ROAD AND CLARATINA AVENUE TO
THE CITY OF MODESTO (OWNER INITIATED – UNINHABITED)**

WHEREAS, Shelter Cove Church is the owner of approximately 17.4 acres of real property, located on the northeast corner of Coffee Road and Claratina Avenue, and proposes that the Property be included within the North Beyer Specific Plan area for planning purposes (“Property”), and

WHEREAS, the City has received a written request from Shelter Cove Church 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, the Resolution of Application is proposed pursuant to California Government Code Sections 56654 and 56700, and

WHEREAS, on or about December 23, 2002 a notice of intention to adopt said resolution of application was given to the Stanislaus County Local Agency Formation Commission and the following interested and subject agencies: Stanislaus County, Modesto City School District, Modesto Irrigation District, Modesto High School District, Sylvan Union School District and Stanislaus Consolidated Fire Protection District, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibit “A”**, 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. 97-11, on May 28, 1997, and

WHEREAS, the property is covered by a Williamson Act contract, No. 77-2611, and

WHEREAS, said Williamson Act contract was protested by the City on December 27, 1976, pursuant to City Council Resolution No. 76-1372, and

WHEREAS, LAFCO held a public hearing to consider the City's protest of said Williamson Act contract on April 19, 1978 and adopted Resolution No. 76-1372, upholding the City's protest, 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, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

- (a) The annexation of said territory, as set forth on **Exhibit "A"** attached hereto, to the City of Modesto.
 - (b) The detachment of said territory from the Stanislaus Consolidated Fire District.
- 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 sole property owner, Shelter Cove Church, to annex their Property to the City of Modesto.
- (b) The proposed annexation is consistent with the Urban Area General Plan and the North Beyer Specific Plan and can be 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 “B”**, attached hereto and by this reference incorporated herein, and

WHEREAS, Planning Commission held a duly noticed public hearing to consider the proposed application for annexation on January 27, 2003, 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, the Modesto City Council held a duly noticed public hearing to consider the proposed application for annexation on February 25, 2003, at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

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

1. That application be made for reorganization of the Property subject to the following terms and conditions:
 - (a) The annexation of said territory, as set forth on **Exhibit “A”** attached hereto, to the City of Modesto.
 - (b) The detachment of said territory from the Stanislaus Consolidated Fire District.
2. That future development of this site shall be consistent with the Modesto Urban Area General Plan adopted by the Council of the City of Modesto on August 15, 1995, and the North Beyer Specific Plan adopted by the Council of the City of Modesto on January 7, 1997, and subsequent amendments.
3. That all owners of land within the affected territory 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.
4. That the City hereby exercises its option not to succeed to the Williamson Act Contract, No. 77-2611, pursuant to California Government Code Section 51243.5, and thereby tentatively cancels said contract.
5. That the Resolution of Application is consistent with the City of Modesto Urban Area General Plan, adopted by the Modesto City Council by Resolution No. 95-409 on August 15, 1995.
6. That the proposed Reorganization and has received CEQA environmental review through an Initial Study, leading to a Mitigated Negative Declaration (SCH # 2002122117).

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 the resolution of application which action is brought within the time period provided for in Section 66499.37 of the Government Code of the State of California. 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 the regular meeting of the Modesto City Council held on February 25, 2003, by Councilmember Fisher, 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:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM
By: Michael D. Milich
MICHAEL D. MILICH, City Attorney

Attachments Exhibit "A" Written Description
 Exhibit "B" Annexation Proposal Map
 Exhibit "C" Plan for Services

Exhibit "A"

WRITTEN DESCRIPTION

Legal Description

All that certain real property situate in the County of Stanislaus, State of California, more particularly described as follows:


The South one-half of the Northwest one-quarter of the Southwest one-quarter of Section 3, Township 3 South, Range 9 East, Mount Diablo Base and Meridian.

EXCEPTING THEREFROM the South 15 feet thereof

Also **EXCEPTING THEREFROM** all that certain real property conveyed to the County of Stanislaus by the document filed for record on July 7, 1989 as Document No. 051465 of Official Records, Stanislaus County Records and described as follows:

Commencing at the West quarter quarter section corner of said Section 3; thence North $89^{\circ}55'47''$ East 20.00 feet; thence North $1^{\circ}08'11''$ West 15.00 feet to the point of beginning of this description; thence North $1^{\circ}08'11''$ West on East line of Coffee Road, 651.53 feet to the North line of property described in Deed to William T. and Veronica A. Loretelli, recorded 1986 as Document No. 049999, Stanislaus County Records; thence North $89^{\circ}59'47''$ East on said North line 30.00 feet; thence South $1^{\circ}08'11''$ East 50.00 feet East of and parallel with the centerline of Coffee Road 574.39 feet; thence South $44^{\circ}58'48''$ East 20.79 feet; thence South $88^{\circ}49'25''$ East 882.17 feet to the beginning of a curve, concave to the North, having a radius of 4950.00 feet and a central angle of $1^{\circ}37'28''$; thence Easterly on the arc of said curve 140.34 feet; thence North $89^{\circ}33'07''$ East 225.19 feet to the Easterly line of said Loretelli property; thence South $1^{\circ}00'09''$ East on said Easterly line 43.64 feet; thence South $89^{\circ}55'47''$ West 15.00 feet North of and parallel with the quarter quarter section line of said Section 3 a distance of 1291.44 feet to the point of beginning.

END DESCRIPTION



LICENSED LAND SURVEYOR
MICHAEL K. JONES
No. 6805
Ex. 9-30-2004
STATE OF CALIFORNIA
Feb. 12, 2003

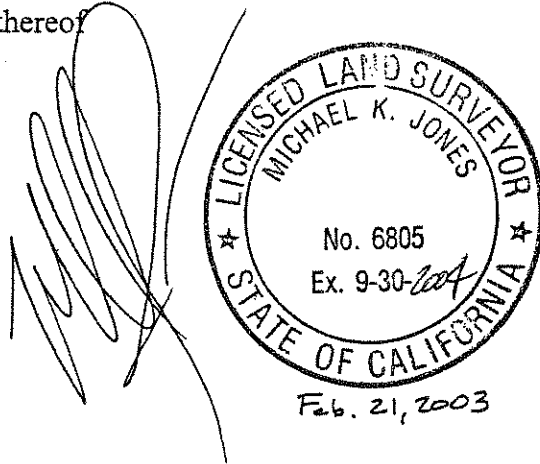
Legal Description of Property

All that certain real property situate in the County of Stanislaus, State of California, more particularly described as follows:

The South one-half of the Northwest one-quarter of the Southwest one-quarter of Section 3, Township 3 South, Range 9 East, Mount Diablo Base and Meridian.

EXCEPTING THEREFROM the South 15 feet thereof

END DESCRIPTION



Feb. 21, 2003

Exhibit "B"

ANNEXATION PROPOSAL MAP

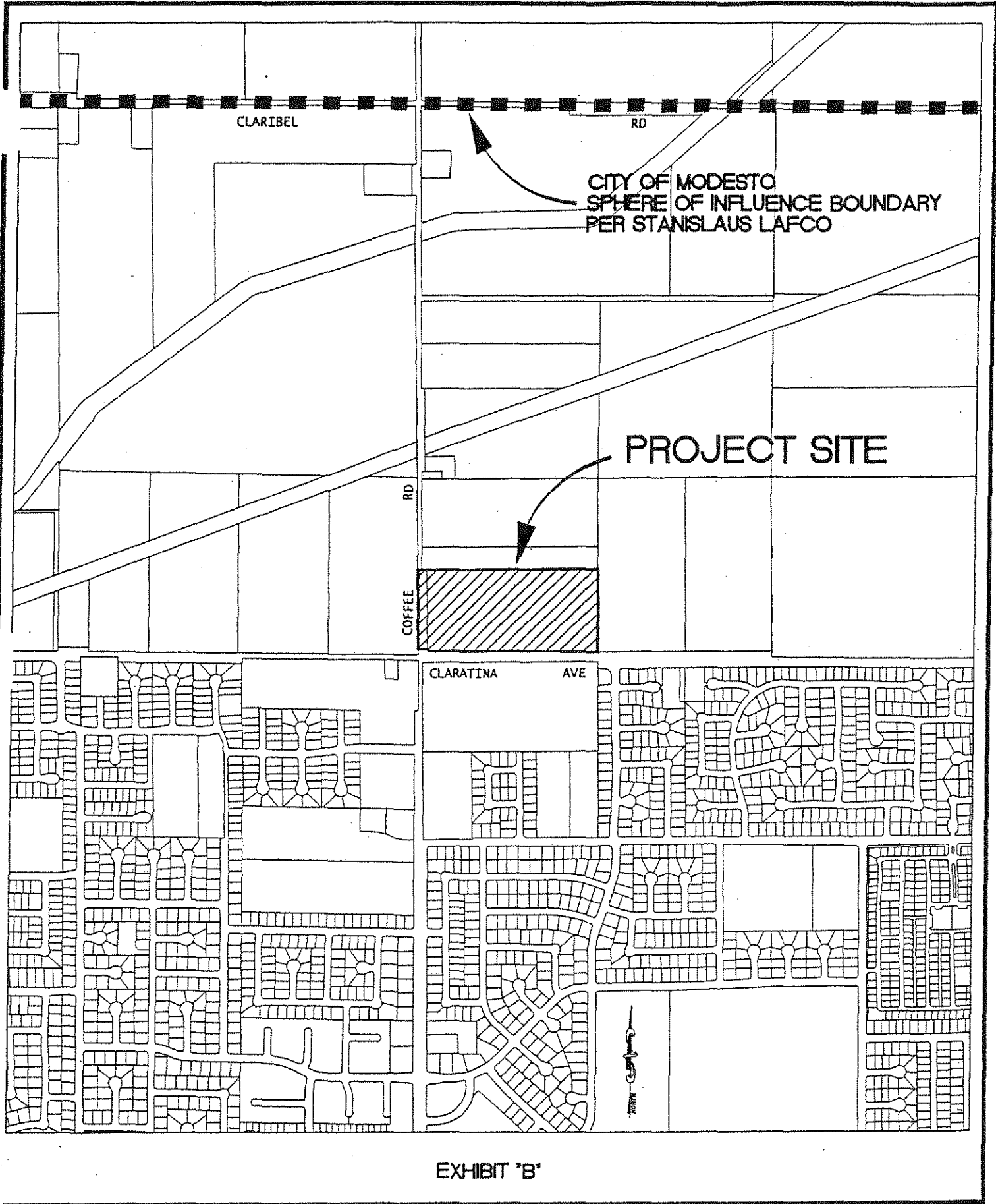


EXHIBIT 'B'

MAP OF PROJECT AREA

Exhibit "C"
PLAN FOR SERVICE

EXHIBIT "C"

SHELTER COVE 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 Machado Reorganization:

- A. The project site is part of the North Beyer Specific Plan adopted January 7, 1997 (City Council Resolution No. 97-4), amended on February 25, 2003 (City Council Resolution No. *). A Mitigated Negative Declaration was prepared for a General Plan and Specific Plan Amendment, and rezoning, to shift the boundaries of the Hetch Hetchy Comprehensive Planning District (CPD) and North Beyer CPD so the existing 17.4 acre Claratina Golf Course and Driving Range property is contained in the North Beyer CPD (SCH# 95122030). Said Mitigated Negative Declaration analyzed community facilities and services. These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, energy, schools, parks, fire, police and other governmental services. The City of Modesto is a full-service municipal city and would provide the following services:
1. **Fire Protection** – Upon reorganization, the properties will be withdrawn from the Stanislaus Consolidated Fire Protection District and fire protection services will be provided by the Modesto Fire Department. Primary response will come from Station No. * located approximately one (1) mile from the project site on Mable Avenue.
 2. **Police Protection** – Modesto City Police would assume responsibility for police protection upon effective date of annexation.
 3. **Garbage and Garden Refuse Pickup** – Weekly pickup would be extended to the area upon effective date of annexation.
 4. **Sanitary Sewer Service** – Sewer service can be provided to the annexation area from an existing 18" sewer line in Coffee Road. Service would be extended upon development of the subject site at no cost to the City, as existing City fees and property owner financing will be sufficient to cover the cost.
 5. **Water Service** – Service would be provided by the City of Modesto upon annexation. The City currently has water facilities in the area. Future development of the subject site as a church requires dedication of a water well site for a future well location. Currently, the project site is served by two wells, one providing irrigation water to the project site, and another which provides domestic water to the restaurant, pro shop and public facilities that currently exist on the subject site. The existing property is 17.4 net acres in size, but this does not include the right-of-way for the future Claratina Expressway. The future Claratina Expressway right-of-way is currently fenced, landscaped and irrigated as part of the Claratina Golf Course and Driving Range facility. The project engineer has estimated that approximately 15 acres of the project site is currently in turf. Based on the engineer's conversation with a local landscape architect, an estimate of 52.6 inches of water per square foot of turf was used to determine that

Exhibit "C" Plan for Services
Shelter Cove Reorganization

approximately 65 acre-feet of water per year is used to irrigate the existing turf at the project site. This 65 acre-feet does not take into consideration any additional domestic water use for the restaurant, pro shop and public facilities at the site. Independently, as part of the project analysis, the City of Modesto Engineering and Transportation Department determined that for the sizing of water infrastructure, a peak flow of 15.35 million gallons per year would be used. This peak flow number is only for the purpose of sizing facilities, and the same analysis determined that the average yearly water use at the site at development would be approximately 3.8 million gallons, or about 12 acre-feet per year. Based upon the foregoing, the site is estimated to currently use approximately 65 acre-feet of year of water to irrigate turf, and after development of the project, it is estimated that approximately 12 acre-feet per year of water will be needed to serve the church project and its landscaping.

6. **Streets** – Coffee Road already exists along the site frontage. Claratina Avenue is proposed to be extended in 2004 pursuant to the Modesto Capital Improvement Plan, however site access is proposed via Coffee Road and not Claratina Avenue. These streets will be the responsibility of the City.

B. The level and range of services:

The City of Modesto is a full service provider of municipal services and would provide the full range of services for those areas listed above.

C. When can the services be provided?

The above-described services can be provided upon the effective date of annexation.

D. Improvements required as condition of reorganization.

No improvements will be required as a condition of reorganization. Connection to the City of Modesto sewer system will be required five years from when sewer is available per Modesto Municipal Code Section 5-6.18. Improvements would be required as a condition of development.

E. How will services be financed?

Services will be financed through a combination of City fees and Enterprise Fund.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-104**

A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION (SCH NO. 2002122117) FOR THE FOLLOWING PROJECTS 1) GENERAL PLAN AMENDMENT TO SHIFT COMPREHENSIVE PLANNING DISTRICT BOUNDARIES IN ORDER TO MOVE THE 17.4 ACRE PROPERTY LOCATED AT THE NORTHEAST CORNER OF COFFEE ROAD AND CLARATINA AVENUE FROM THE HETCH HETCHY COMPREHENSIVE PLANNING DISTRICT (CPD) TO THE NORTH BEYER CPD; 2) SPECIFIC PLAN AMENDMENT TO INCLUDE THE SUBJECT 17.4 ACRE PROPERTY IN THE NORTH BEYER PARK SPECIFIC PLAN AND DESIGNATE THE PROPERTY AS CHURCH (CH), 3) RESOLUTION OF APPLICATION TO STANISLAUS LOCAL AGENCY FORMATION COMMISSION FOR A PROPOSED REORGANIZATION TO ANNEX THE SUBJECT 17.4 ACRE PROPERTY TO THE CITY OF MODESTO AND ELECTION NOT TO SUCCEED TO WILLIAMSON ACT CONTRACT AND 4) ORDINANCE AMENDMING SECTION 339 OF THE ZONING MAP OF THE CITY OF MODESTO PREZONING TO SPECIFIC PLAN OVERLAY (SP-O) ZONE

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, on November 26, 1996, by Resolution No. 96-640, the City Council of the City of Modesto certified the Mitigated Negative Declaration for the North Beyer Park Specific Plan (SCH No. 96102053), and

WHEREAS, the Shelter Cove Church have proposed 1) a General Plan Amendment (File No. P-GPA 02-002) to shift Comprehensive Planning District boundaries in order to move the 17.4 acre property located at the northeast corner of Coffee Road and Claratina Avenue from the Hetch Hetchy Comprehensive Planning District (CPD) to the North Beyer CPD; 2) a Specific Plan Amendment (File No. P-SPA-02-001) to include the subject 17.4 acre property in the North Beyer Specific Plan and

designate the property as Church (CH); 3) a request to Prezone (File No. PRZ 02-001) the subject 17.4 acre property to Specific Plan Overlay (SP-O) zone, and

WHEREAS, the City of Modesto proposes to adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex the 17.4 acre property located at the northeast corner of Coffee Road and Claratina Expressway and election not to succeed to a Williamson Act Contract, and

WHEREAS, the proposed General Plan Amendment, Specific Plan Amendment, rezoning designation and the Resolution of Application are hereafter collectively referred to as “the projects”, 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 as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department prepared an Initial Study leading to a Mitigated Negative Declaration (SCH No. 2002122117) which reviewed the proposed subsequent project to the City’s General Plan Master EIR, the Initial Study identified additional potentially significant environmental effects that were not analyzed in the Master EIR in terms of Traffic, Noise, Agricultural Resources, Drainage, Flooding and Water Quality, and Storm Drainage, and

WHEREAS, feasible mitigation measures were incorporated to revise the subsequent project before the Initial Study/Mitigated Negative Declaration was released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur, and

WHEREAS, Government Code Section 21175.5 permits the adoption of Mitigated Negative Declarations; and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA No. C&ED 2002-76, determined that a Mitigated Negative Declaration should be adopted for the proposed project under the General Plan Master Environmental Impact Report (SCH No. 92052017), and

WHEREAS, the Draft Mitigated Negative Declaration (SCH No. 2002122117) was released for public review and comment for the required 30-day period ending on January 26, 2003, and

WHEREAS, the Final Mitigated Negative Declaration (SCH No. 2002122117), incorporates all comments received during the circulation period and response to comments, and

WHEREAS, no new unavoidable significant effect was identified and mitigation measures or project revisions were required to be added in order to reduce potential effects to less than significance as a result of public comments on the Draft Mitigated Negative Declaration, and

WHEREAS, responses to comments received during the circulation period, were distributed to commenting agencies for the required ten-day period, and

WHEREAS, the Initial Study/Mitigated Negative Declaration EA/C&ED 2002-76 (SCH No. 2002122117) was considered by the Planning Commission at a duly noticed public hearing which was held on January 27, 2003, at 7:00 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

WHEREAS, after said public hearing, the Modesto Planning Commission adopted Resolution No. 2003-07, recommending to the City Council, approval of a mitigated negative declaration (SCH No. 2002122117) for the subject projects, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared for the proposed Projects, a copy of which is on file with the City Clerk and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. An Initial Study/Mitigated Negative Declaration prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional significant environmental effects that were not analyzed in the General Plan Master EIR. These additional significant effects are potential impacts to Traffic, Noise, Agricultural Resources, Drainage, Flooding and Water Quality, and Storm Drainage.
2. Feasible mitigation measures were incorporated to revise the subsequent project before the Negative Declaration and Initial Study were released for public review in order to avoid or mitigate the effects to a point where clearly no significant effects on the environment will occur.
3. 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 (CEQA Section 21064.5(2)).
4. Based on the above referenced Initial Study and feasible mitigation

measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed projects.

5. Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above have been added to the projects. The MITIGATED NEGATIVE DECLARATION will therefore be certified.
6. Finding 1 above provides the substantial evidence to support the certification and adoption of the Initial Study/Mitigated Negative Declaration and City Council finds that the document reflects the independent judgment of the lead agency.
7. As required by CEQA Section 21081.6 et seq., a mitigation monitoring program will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6 (b)).

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 the project. 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.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department 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 Modesto City Council held on February 25, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: None

ATTEST Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

RESCINDED

FEB - 6 2007

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-105**

**A RESOLUTION ESTABLISHING FEES FOR EVENING AND WEDNESDAY
PARKING AT THE TENTH STREET PLACE (TSP) AND 11TH STREET
PARKING GARAGES AND ALLOCATING SEVENTY-FIVE PERCENT (75%)
OF THE GROSS REVENUES FROM EVENING FEES ASSESSED AT THE
11TH STREET GARAGE TO FUND POLICE SERVICES REQUIRED TO
SUPPORT EVENING ACTIVITIES IN PROXIMITY TO THAT GARAGE**

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2007-026

WHEREAS, the City Council has established fees for parking at the City's off-street parking facilities, and

WHEREAS, the current hours for fee collection at the TSP and 11th Street Garages are set from 8 a.m. to 6 p.m., Monday through Friday, and

WHEREAS, Council has also authorized collection of a two dollar (\$2.00) fee for special event parking beyond the designated fee collections hours, subject to the discretion of the Operations and Maintenance Director, and

WHEREAS, the present collection hours were adopted in order not to discourage persons from visiting downtown during the evening hours, on weekends and on holidays, and

WHEREAS, in recent months new businesses have opened in the downtown area which are bringing in large crowds, particularly between the hours of 8 p.m. and 2 a.m., and

WHEREAS, most of the people visiting the City during these evening hours use the 11th Street Garage for a parking facility, and

WHEREAS, the additional crowds downtown require a higher level of police presence and also require using private security forces in the evening hours in the City's parking garages, the cost of which is significant, and

WHEREAS, charging an evening fee at the parking garages would help offset the costs of operation to support the larger evening crowds, and

WHEREAS, the prospect of charging evening fees was discussed with the Downtown Improvement District Board, which Board supported the fees as long as they did not adversely impact downtown restaurants, and

WHEREAS, staff conducted tests at the 11th Street Garage using the special event authority to charge two dollar (\$2.00) parking fees at various times from 8 p.m. to 9:30 p.m., and

WHEREAS, depending upon the hours of staffing, revenues on evenings with downtown activities during this test period ranged from three hundred dollars (\$300) to nine hundred and fifty dollars (\$950) per evening, and

WHEREAS, on many nights the 11th Street Garage was at capacity by 10 p.m. and there were no complaints raised by customers regarding payment of the fee, and

WHEREAS, implementation of a parking fee for evening and weekend uses set at a range from three dollars (\$3.00) to five dollars (\$5.00) per vehicle will result in estimated revenues of ninety thousand dollars (\$90,000) annually at the 11th Street Garage and twenty thousand dollars (\$20,000) annually at both garages for weekend and holiday uses, and

WHEREAS, seventy-five percent (75%) of the evening fees assessed would be directed toward police services required to support evening activities in proximity to the 11th Street Garage, and

WHEREAS, said parking fees would be assessed during the hours from 8 p.m. to 12:30 a.m., for evening users, and between 8 a.m. and 5 p.m., for weekend and

holiday users, dependent upon the activity level in downtown, in order to be least disruptive to downtown restaurants, and

WHEREAS, the Finance Committee recommended approval by the City Council at its January 27, 2003, meeting, and

WHEREAS, by an agenda report dated January 28, 2003, from the Operations and Maintenance Director, city staff recommended to the City Council that evening and weekend parking fees be established, a copy of said report is on file in the City Clerk's office, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council to be held at 5:30 p.m. on February 25, 2003, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of receiving public comment on the proposed fees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves evening and weekend/holiday fees for the City's TSP and 11th Street Parking Garages as follows:

<u>Time</u>	<u>Fee</u>
Evenings - 8 p.m. to 12:30 p.m.	\$3 - \$5 per vehicle**
Weekends/Holidays* - 8 a.m. to 5 p.m.	\$3 - \$5 per vehicle**

* Subject to activities

** Exact fee left to the discretion of the Operations and Maintenance Director

BE IT FURTHER RESOLVED by the Council of the City of Modesto that seventy-five percent (75%) of the gross evening revenues collected at the 11th Street Parking Garage be allocated for police services to support evening activities in proximity to that garage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

Mike Milich
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-106**

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) AND AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN THE TERRITORY PROPOSED TO BE ANNEXED (ANNEXATION #2)

WHEREAS, pursuant to Chapter 3.5 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"), proceedings for annexation of additional territory to an existing community facilities district may 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. 98-653, adopted on December 8, 1998, (the "Resolution of Formation") establish Community Facilities District No. 1998-2 ("the District"), and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 99-286, adopted on June 8, 1999, order a change and add taxes for completion of Snyder Avenue improvements, and

WHEREAS, by its Resolution No. 2000-278 adopted on June 6, 2000, this Council resolved to complete Annexation #1 to the District, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation, pursuant to Section 53339 of the Act, of certain territory to the District, and

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

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

SECTION 1. The above recitals are true and correct.

SECTION 2. Certain territory is proposed to be annexed to the District (the “Annexed Territory”) under the terms of the Act.

SECTION 3. The original boundaries of the District are shown on a map entitled “Proposed Boundaries of Community Facilities District No. 1998-2 (Carver-Bangs/Pelandale-Snyder) County of Stanislaus, State of California” on file with the County Recorder of the County of Stanislaus, at Volume 2 of Maps of Assessment and Community Facilities Districts, at Page 97.

SECTION 4. District boundaries after Annexation #1 are shown on a map entitled “Annexation No. 1 to Community Facilities District No. 198-2 (Carver-Bangs/Pelandale-Snyder)” on file with the County Recorder of the County of Stanislaus at Volume 3 of Maps of Assessment and Community Facilities Districts, at Page 33.

SECTION 5. The Annexed Territory is described in **Exhibit “A”** to this Resolution. The boundaries of the Annexed Territory are also shown on the maps thereof, entitled AAnnexation No. 2 to Carver-Bangs/Pelandale-Snyder CFD No. 1998-2”, on file in the office of the City Clerk, and 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 10 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 and 3110.5 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 6. An amendment to the District was processed in 1999, adding taxes for the completion of Snyder Avenue improvements.

SECTION 7. The types of public facilities and services authorized to be provided to the District are set forth in the Public Report, as amended in March, 1999, a copy of which is attached hereto as Exhibit "B". These same types of facilities and services will be provided to the Annexed Territory.

SECTION 8. The Maintenance Special Tax component of the special tax to be levied in the Annexed Territory shall be the same as the Maintenance Special Tax currently levied in the original District, as set forth in the Resolution of Formation. The Facilities Special Tax component of the special tax to be levied in the Annexed Territory shall be slightly higher than that levied in the Resolution of Formation, to account for the additional cost of completion of Snyder Avenue improvements, as referenced in Section 5 hereof. The Facilities Special Tax for the Annexed Territory is described in the CFD Public Report adopted for the District, as amended in March, 1999, a copy of which is on file with the City Clerk and attached hereto as Exhibit "B". It is the intention of the City Council that in the event all of the subject taxes are not approved by the qualified electors of the Annexed Territory at an election to be held subsequent to the approval of this Resolution of Intention, that then, and in that sole event, the annexation of the Annexed Territory shall be a nullity, and void from the date of the public hearing on this

resolution where it is approved.

Pursuant to the Public Report, the maximum Maintenance Special Tax and the maximum Facilities Special Tax shall be adjusted annually.

The Facilities Special Tax rates in effect as of January 1, 2003 are as follows:

	Tax Area A (Carver-Bangs)		Tax Area B (Pelandale-Snyder)	
	Non-Storm Drainage (per acre)	Storm Drainage (per acre)	Non-Storm Drainage (per acre)	Storm Drainage (per acre)
1/1/03 - 12/31/03	\$ 8,303.44	\$ 12,586.58	\$ 13,554.61	\$ 15,987.13

The Annual Maintenance Tax rates in effect as of July 1, 2002 are as follows:

Tax Year	Tax Area A (Carver-Bangs)			Tax Area B (Pelandale-Snyder)		
	Single Family Per Unit	Multi-Family Per Acre	Non-Residential Per Acre	Single Family Per Unit	Multi-Family Per Acre	Non-Residential Per Acre
2002-2003	\$138.04	\$1,105.52	\$1,105.52	\$107.63	\$857.51	\$857.51

SECTION 9. A public hearing upon this Resolution shall be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, April 3, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, such time being not less than thirty (30) or more than sixty (60) days following the adoption thereof.

SECTION 10. At the hearing, any interested persons for or against the annexation of the Annexed Territory to the District, and the levy of the special tax 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.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Conrad, 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: Conrad, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

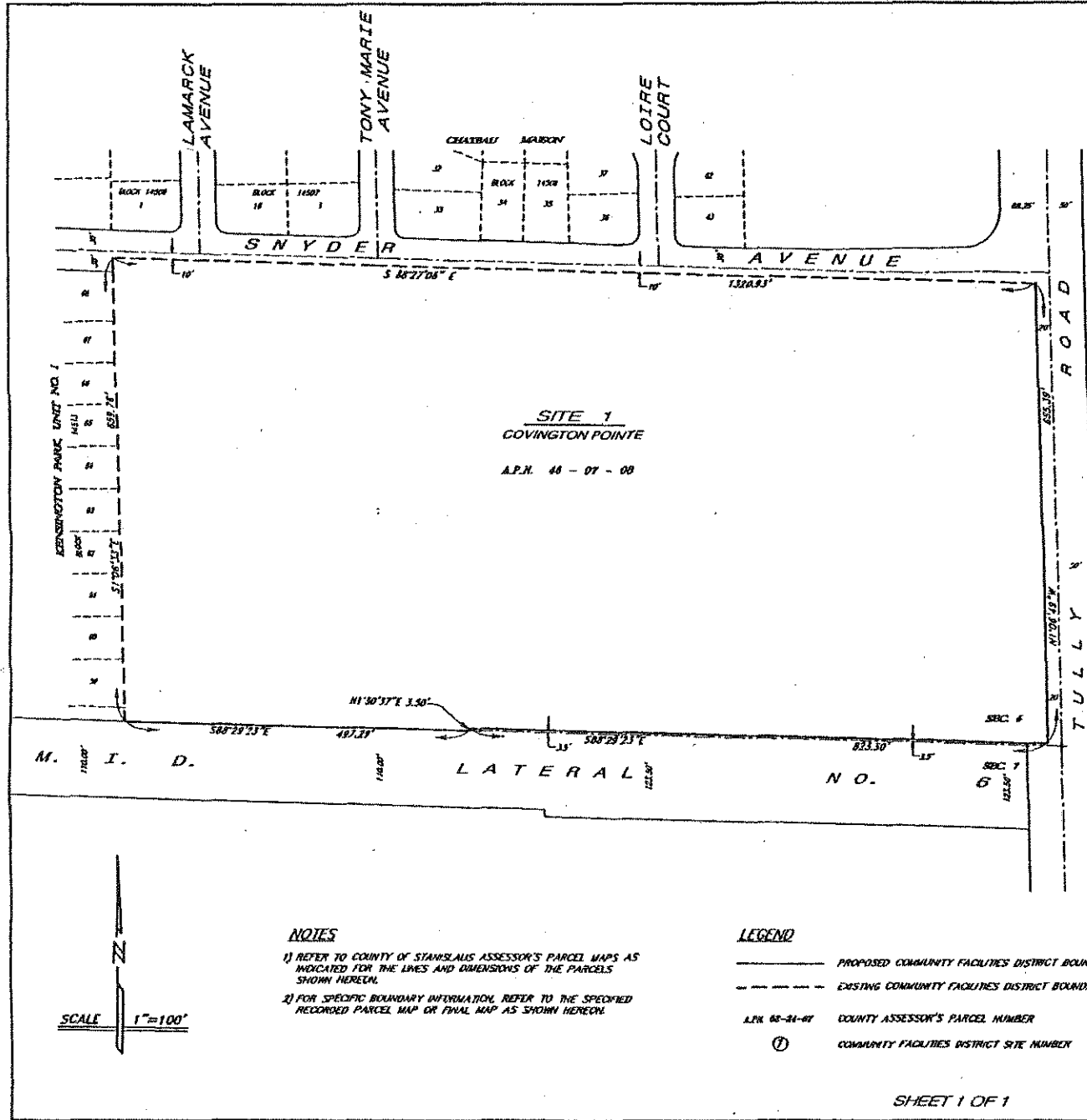
By 
MICHAEL D. MILICH, City Attorney

SECTION 11. The City Clerk is directed to publish, not later than seven (7) 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 proposed annexation or the levying of the special tax therein will be heard.

SECTION 12. 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 Annexed Territory, or the owners of one-half or more of the area of land in the District and not exempt from the special tax, or the owners of one-half or more of the Annexed Territory, file written protests against the proposed annexation of the Annexed Territory to 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 annex the Annexed Territory, or to levy the District special tax therein, shall be taken for a period of one year from the date of the election of the Council on the issues discussed at the hearing.

At the conclusion of the hearing, if the Council determines to annex the Annexed Territory, it shall then submit the levy of the District special tax to the qualified electors of the Annexed Territory in a special election.

Exhibit "A"
(Boundary Map)



**ANNEXATION NO. 2 TO
CARVER-BANGS / PELANDALE SNYDER
CFD NO. 1998-2**

PROPOSED BOUNDARIES OF ANNEXATION NO. 2
COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER)
CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO,
COUNTY OF STANISLAUS, STATE OF CALIFORNIA, IN RECORDABLE FORM
THIS ____ DAY OF _____, 200__

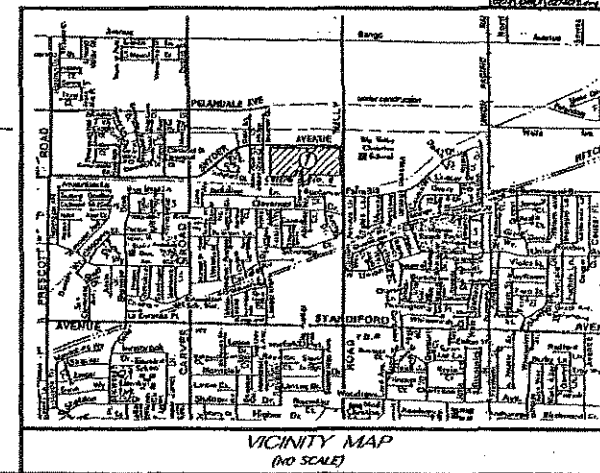
JEAN ZAHN, CITY CLERK, CITY OF MODESTO
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THIS MAP WAS APPROVED BY THE CITY
COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF,
HELD ON THE ____ DAY OF _____, 200__, BY
ITS RESOLUTION NO. _____

JEAN ZAHN, CITY CLERK, CITY OF MODESTO
STATE OF CALIFORNIA

FILED THIS ____ DAY OF _____, 200__, 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 LUNDGREN, COUNTY RECORDER,
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



87-308

Exhibit "B"
(Public Report, amended March, 1999)

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)

CFD-PUBLIC REPORT

March 25, 1999

Prepared For:

CITY OF MODESTO

Prepared By:

DAVID TAUSSIG AND ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109

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APPENDICES:

Appendix A: CFD Boundary Map

Appendix B: Rate and Method of Apportionment of Special Tax and Reimbursements

Appendix C: Detailed Facility Cost Estimates

I. BACKGROUND

Community Facilities District (CFD) No. 1998-2 is being formed to provide a funding and reimbursement mechanism for public facilities and services required to serve the Carver-Bangs and Pelandale-Snyder Specific Plans in the City of Modesto. Portions of both Specific Plan areas are included within the initial boundaries of the CFD, and the remainder of the property within both Plan areas is expected to annex into the CFD at a later date.

As a condition of development of the Specific Plan areas, the developers are required to install various public improvements which will serve the increased population generated from the projects. Many of these improvements must be provided in the early stages of development and, therefore, the first developers to build within the projects must install the improvements and receive fee credits or reimbursements in exchange for the facilities. CFD No. 1998-2 is the vehicle that will be used to ensure that all landowners in the Specific Plans pay their fair share of the public improvements. In addition, the CFD will generate funding for ongoing maintenance of landscaping and open space within the project areas.

Following is a brief description of both projects:

A. *Carver-Bangs Specific Plan*

On April 1, 1997, the City Council of the City of Modesto approved Resolution No. 97-161, thereby adopting the Carver-Bangs Specific Plan. The Specific Plan was subsequently amended by City Council Resolution 97-633. Carver-Bangs is a proposed 160-acre project bounded on the east by Carver Road, on the North by Bangs Avenue, on the south by the Pelandale-Snyder Specific Plan (discussed further below), and on the west by the Kiernan Business Park area. The Carver-Bangs Specific Plan will be developed under the City's Village Residential guidelines, which will yield approximately 800 single family residential units.

B. *Pelandale-Snyder Specific Plan*

The Pelandale-Snyder Specific Plan was approved by the City Council on January 16, 1996 by the adoption of Resolution No. 95-16, and was subsequently amended by City Council Resolutions 97-136 and 97-139. The Specific Plan area is bounded by Dale Road on the west, the extension of Pelandale Road on the north, Union Pacific Railroad on the east, and the Modesto Irrigation District canal and Snyder Avenue on the South. Approximately 227 acres of the project are designated Single Family Residential (SFR), and 57 acres are designated Multi-Family Residential; in total, 2,613 residential dwelling units are expected at buildout of the Specific Plan. In addition, 36 acres of the Specific Plan area will be used for an elementary school site, a City park, and a church.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 1998-2

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 1998-2 (Resolution No. 98-582) was adopted by the City Council on November 3, 1998. After a public hearing and a successful election by landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of CFD 1998-2

As mentioned above, the initial boundaries of the CFD include portions of both the Carver-Bangs and Pelandale-Snyder Specific Plans. Additional property is expected to annex into the CFD in future years as development in the area expands. It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax formula as property in the CFD from the start, with a maximum Facilities Special Tax (discussed further below) assigned to the property when it is annexed. Property in the Carver-Bangs Specific Plan is included within Tax Area A of the CFD, and parcels in Pelandale-Snyder make up Tax Area B of the CFD. A separate maximum tax has been calculated for each tax area, as discussed further in Section C below.

The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in Volume 3, page 5 of the Book of Maps of Assessment Districts and Community Facilities Districts in the Stanislaus County Recorder's Office. A copy of the CFD boundary map is provided as Appendix A of this CFD Public Report.

C. CFD Special Tax Structure

1. Facilities Special Tax

Each year, special taxes will be levied and collected from parcels within the CFD to pay costs associated with storm drainage and road improvements, as well as maintenance of these improvements (authorized facilities and maintenance costs are discussed in more detail below). The Rate and Method of Apportionment of Special Tax and Reimbursements ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in Sections D and E of the RMA, two different special taxes will be levied within the CFD. First, a "Facilities Special Tax" will be levied to pay for capital improvements and appurtenant expenses, such as design, planning, engineering and inspection. The entire Facilities Special Tax will be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction on a parcel within the CFD. Because each Specific Plan area is responsible for only the facilities required to serve that area, separate "tax areas" were established within the CFD to avoid any crossover of responsibility for the funding of required infrastructure. A separate Facilities Special Tax has been determined for each assessor's parcel that was included within each tax area at the time CFD No. 1998-2 was formed; Attachment 2 of Appendix B identifies the maximum Facilities Special Tax assigned to each parcel.

Section C.1 of the RMA (Appendix B) explains how the Facilities Special Tax obligation assigned to each original assessor's parcel will be reallocated when subdivision occurs. Regardless of changes in land use in future years, the maximum Facilities Special Tax revenues that can be collected from property in the CFD will never be reduced. In January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each assessor's parcel will be increased by four percent of the amount in effect in the prior year.

Section D of Appendix B sets forth a credit/reimbursement program which allows developers who have constructed and dedicated public improvements to take credits against the Facilities Special Taxes that would otherwise be paid until such credits equal the cost set forth in Appendix C of this CFD Public Report for the public improvements provided by the developer. Regardless of the actual cost incurred by the developer for construction of the public improvement(s), credits against the Facilities Special Tax can be taken until the amount credited is equal to the facility cost shown in Appendix C for that improvement(s). If the developer's project is built out and a balance remains to be credited, the developer will instead receive a cash reimbursement from Facilities Special Taxes collected from other property owners in the CFD until the combined amount of fee credits and cash reimbursements is equal to the cost of the public improvement(s) as shown in Appendix C of this report. All costs and reimbursements are subject to a four percent increase in January 2002 and each January thereafter.

Facility Special Tax credits and reimbursements will be applied based on a specified order of priority, which is identified in Attachment 1 of Appendix B. Until all facilities of a higher priority have been fully funded, a developer who builds an improvement that is of a lower priority will not receive fee credits or reimbursements. The order of priority is specific to each tax area, which means facilities of a lower priority may be funded in one tax area even if the higher priority facilities in the other tax area have not yet been fully funded. Appendix B provides a more detailed description of the credit/reimbursement program.

2. Maintenance Special Tax

The second special tax that can be levied in the CFD is the "Maintenance Special Tax", which will be collected to pay costs associated with maintaining parkways and open space in both Specific Plan areas. Again, a separate maximum Maintenance Special Tax has been determined for Tax Area A and Tax Area B, as shown in the following table:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre
* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.		

The Maintenance Special Tax will be collected each fiscal year on the property tax bills of all parcels in the CFD that have had a final building permit inspection conducted or a certificate of occupancy issued prior to June 1 of the preceding fiscal year.

III. FACILITIES AND SERVICES TO BE FUNDED BY CFD NO. 1998-2

The facilities and services described below are all facilities which the City of Modesto is authorized to finance and which are required to adequately meet the needs of CFD No. 1998-2. The special taxes required to pay for these facilities and services will be apportioned according to the "Rate and Method of Apportionment of Special Tax" included as Appendix B of this report.

Capital Improvements

A. *Carver-Bangs (Tax Area A)*

Following is a summary of the capital improvements to be funded through CFD No. 1998-2 to serve the Carver-Bangs Specific Plan. A detailed breakdown of facility components and the corresponding cost estimates is provided in Appendix C of this report.

Storm Drainage Improvements	\$1,494,750
Prescott Road	145,422
American Avenue	24,033
Bangs Avenue	254,305
Carver Road	57,270
American Avenue Canal Overcrossing	295,066
Class I Bike Trail	142,500
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$2,480,847

B. Pelandale-Snyder (Tax Area B)

Storm Drainage Improvements	\$4,389,042
Dale Road	531,075
Prescott Road	628,297
Tully Road	1,011,016
Snyder Avenue	504,283
Class I Bike Trail	752,675
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$7,883,888

Annual Maintenance Costs

A. Carver-Bangs

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Cost</u>	<u>Total Cost</u>
Bangs Avenue (South Side)				
8' Landscape Strip (4,680 LF x 8' = 37,400 SF)	37,400	SF	\$0.72	\$26,957
American Avenue (East Side)				
8' Landscape Strip (1,200 LF x 8' =9,600 SF)	9,600	SF	\$0.72	\$6,912
Prescott Road 16' Center Median	10,500	SF	\$0.72	\$7,740
Prescott Road Treewell and Vine Blockouts with 10' Sidewalk and Masonry Wall (56 Each 5' x 5' Treewalls + 56 each 3' x 10' vine blockouts)	3,080	SF	\$0.72	\$2,218
Class I Bike Trail	1,308	SF	\$0.72	\$942
Pelandale Avenue (North Side) Landscape Strip	1,996	SF	\$0.72	\$1,437
Carver Road (West Side) (1,194 L.F. x 8' = 9,552 S.F.)	9,552	SF	\$0.72	\$6,877
Total Annual Maintenance Costs				<u>\$53,083</u>

B. Pelandale-Snyder

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Total</u>	<u>Cost</u>	<u>Cost</u>
Dale Road (East Side), 12' Wide Landscape Strip (1,255 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584	
Prescott Road (East Side), 12' Wide Landscape Strip (1,225 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584	
Prescott Road 16' Center Median	10,750	SF	\$0.72	\$7,740	
Tully Road (Both Sides), 12' Wide Landscape Strip (2,650 LF x 12' = 21,800 SF)	31,800	SF	\$0.72	\$22,896	
Tully Road 16' Center Median	10,750	SF	\$0.72	\$7,740	
Class I Bike Trail	8,820	SF	\$0.72	\$6,350	
Pelandale Avenue (South Side)	10,400	SF	\$0.72	\$7,488	
Carver West Side Back-up Lots South of Pelandale Avenue (515 L.F. x 5' = 2,575)	2,575	SF	\$0.72	\$1,854	
Landscaping Surrounding Storm Drain Basins	35,000	SF	\$0.72	\$25,200	
Total Annual Maintenance Costs					\$100,436

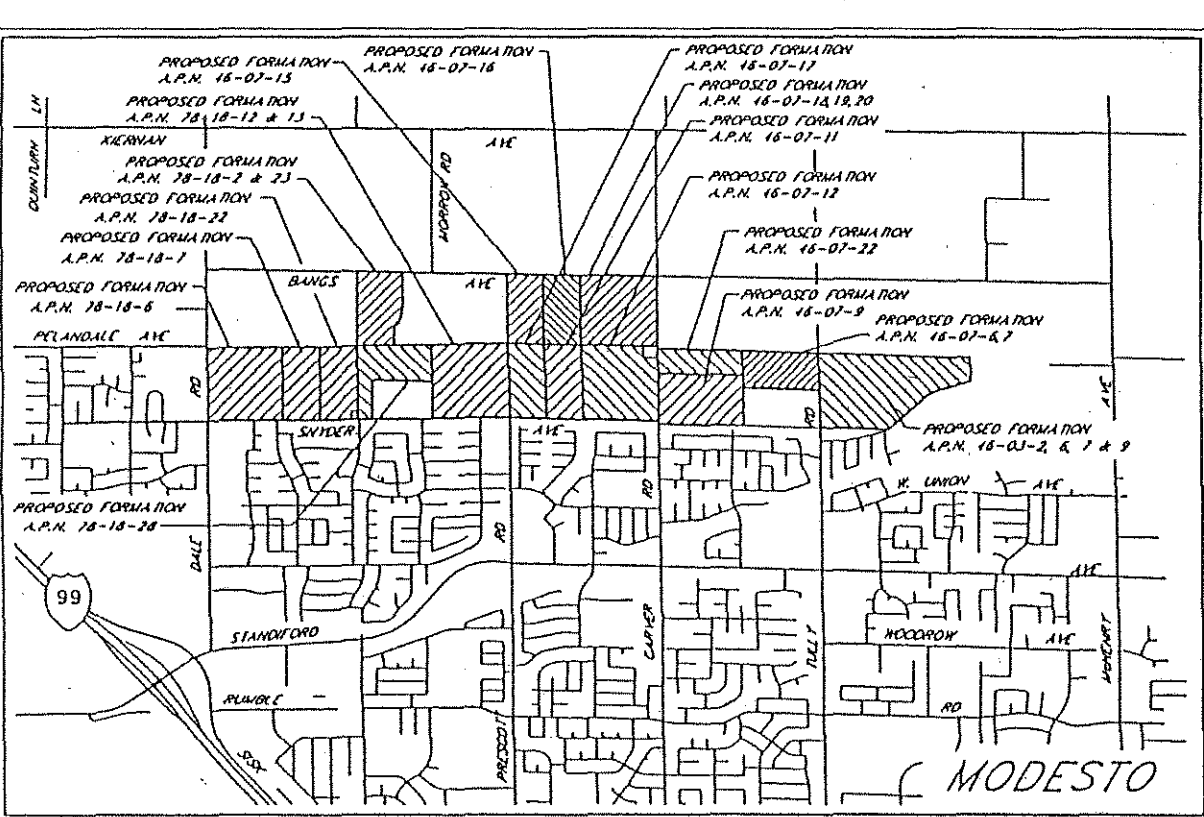
The description of facilities and services, as set forth herein, is general in nature. The final nature and location of improvements will be determined upon the preparation of final plans and specifications.

APPENDIX A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

BOUNDARY MAP

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



CFD 1998-2 FORMATION MAP

NO SCALE



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BASIS OF BEARINGS:
THE BEARING OF SOUTH 89°17'30" WEST ALONG THE LINE BETWEEN GPS MEASUREMENTS 3722 AND 3721 AS SHOWN IN BOOK 22 OF SURVEYS AT PAGE 31, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTE:
THE DISTANCES SHOWN HEREON ARE GROUND DISTANCES MULTIPLY GROUND DISTANCES BY THE GRID FACTOR (.999830334) TO OBTAIN GRID DISTANCES.

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND WAS BASED ON INFORMATION OF RECORD AS NOTED ON THE MAP. I HEREBY STATE THAT THE MAP SUBSTANTIALLY CONFORMS TO THE REQUIREMENTS FOR A COMMUNITY FACILITIES DISTRICT MAP AS PRESCRIBED IN DIVISION 4.5 OF THE STREETS AND HIGHWAYS CODE.

DATED THIS ___ DAY OF _____, 1998

ROY A. GALLI, R.C.E. 16024

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS ___ DAY OF _____, 1998.

JEAN ZAHR, CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2, (CARVER-BANGS/PELANDALE-SNYDER), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO, AT A MEETING THEREOF, HELD ON THE ___ DAY OF _____, 1998, BY ITS RESOLUTION NO. _____

JEAN ZAHR, CITY CLERK

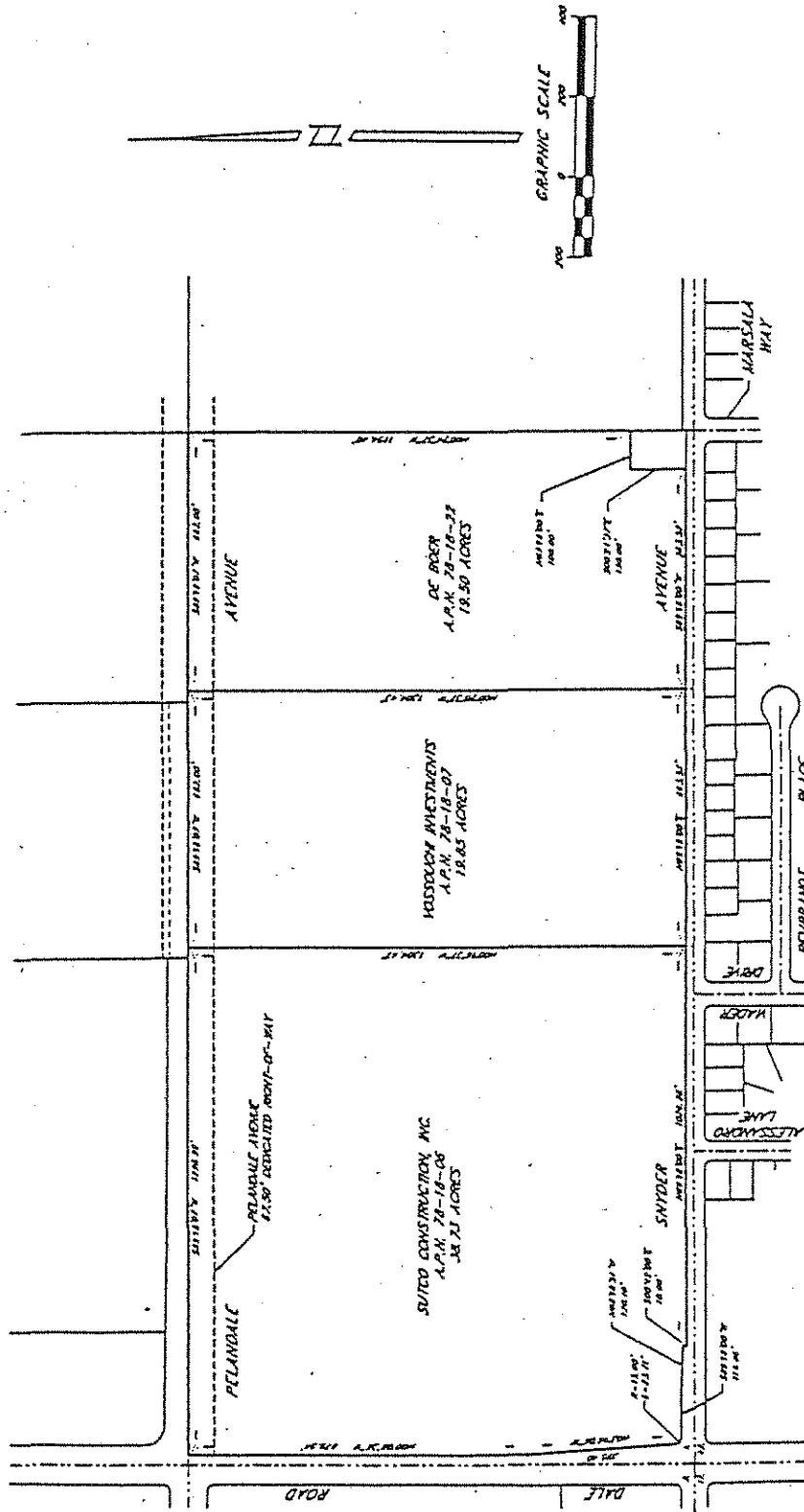
RECORDER'S STATEMENT:

FILED THIS ___ DAY OF _____, 1998, AT THE HOUR OF ___ O'CLOCK, ___ M., UNDER RECORDER'S INSTRUMENT NO. _____, IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

KAREN MATHEWS, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA

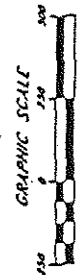
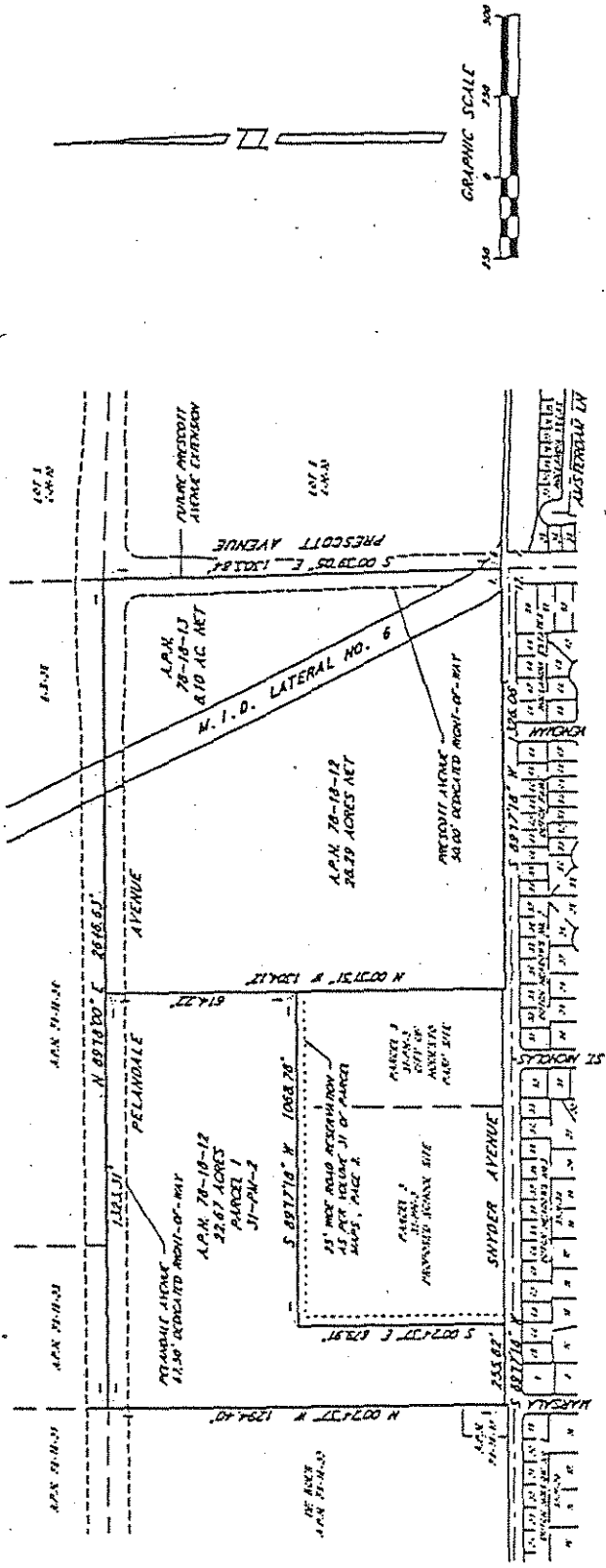
BY: _____ DEPUTY

**PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
COUNTY OF STANISLAUS, STATE OF CALIFORNIA**



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PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

RATE AND METHOD OF APPORTIONMENT OF
SPECIAL TAX AND REIMBURSEMENTS

EXHIBIT B

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND REIMBURSEMENTS

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1998-2 (herein "CFD No. 1998-2") 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. 1998-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1998-2 unless a separate Rate and Method of Apportionment of Special Tax and Reimbursements is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, parcel map, or other recorded County parcel map.

"Administration Component" means that portion of the Facilities Special Tax which must be paid (i.e., is not subject to fee credits) prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure. The revenue collected from the Administration Component will be used by the City to pay annual expenses, consultants' fees, and staff time associated with administering the CFD, monitoring the Authorized Facilities and effecting reimbursements, including but not limited to the following: (i) tracking development in the CFD, (ii) preparing the tax roll for the Annual Maintenance Special Tax, (iii) calculating and collecting the Facilities Special Tax, (iv) engineering, (v) planning, (vi) legal services, and (vii) acquisition and construction of land and improvements associated with the Authorized Facilities.

"Administrator" shall mean the person(s) or firm(s) designated by the City to administer the Special Tax according to this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

“Assessor's Parcel” means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

“Assessor's Parcel Map” means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor's Parcel number.

“Authorized Facilities” or “Authorized Facility” means those public improvements (including portions of such public improvements) to be funded by CFD No. 1998-2 as identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements, including appurtenant expenses such as planning, design, engineering and inspection.

“Buildable Lot” means an individual numbered lot which is in its final configuration and for which a building permit may be issued.

“CFD Costs” means the total amount shown in the CFD Public Report to cover costs associated with CFD formation, CFD administration, and engineering, legal services, planning and geotechnical studies related to the Authorized Facilities.

“CFD Public Report” means the report filed with the City Clerk on behalf of CFD No. 1998-2 pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982.

“Church Property” means any Parcel within the CFD that is exempt from ad valorem property taxes because it is owned by a religious organization.

“City” means the City of Modesto.

“Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1998-2.

“Credit/Reimbursement Amount” means the sum of the portion of the CFD Costs and the costs of Authorized Facilities that have been paid in advance by a builder/developer and have not yet been reimbursed to that builder/developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the builder/developer from Facilities Special Taxes collected from other builders/developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“Facilities Special Tax” means a Special Tax collected by the City to pay for one or more of the following: (i) the costs of Authorized Facilities and CFD Costs, (ii) to reimburse a builder/developer who has an outstanding Credit/Reimbursement Amount, and (iii) if all Authorized Facilities have been completed, to pay for maintenance authorized to be funded by the CFD.

“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.*).

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 1998-2, 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 Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

"Non-Residential Property" means, in any Fiscal Year, all Parcels for which a building permit has been issued for a commercial, office or industrial establishment or any other use which is not single family or multi-family residential property and which is not exempt from Special Taxes pursuant to Section F below.

"Order of Priority" means the order in which the Authorized Facilities and CFD Costs must be fully credited or reimbursed before Special Tax Credits can be made against the Facilities Special Tax or reimbursements paid to a builder/developer for other CFD facilities that are of lower priority. The Order of Priority is identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Original Parcel" means an Assessor's Parcel that will be further subdivided upon recordation of a Final Map. The Original Parcels in CFD No. 1998-2 at the time the Resolution of Formation of CFD No. 1998-2 was approved by the Council are listed in Attachment 2.

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Reimbursable Cost" means, for any of the Authorized Facilities, the amount shown in 1998 dollars in the CFD Public Report, which amount shall, beginning in January 2002 and each January thereafter, be increased by four percent (4%) of the amount in effect in the prior year.

"Special Tax Credit" means a waiver of the creditable portion of the Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the builder/developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

"Subdivided Property" means, in any Fiscal Year, all Buildable Lots for which a final building permit inspection has taken place or a certificate of occupancy has been issued prior to June 1 of the preceding Fiscal Year.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel within the CFD.

“Taxable Property” means, in any Fiscal Year, all Parcels in CFD No. 1998-2 that have not been exempted from the Special Tax pursuant to Section F below.

“Tax Area A” means parcels within the Carver-Bangs Specific Plan Area, which Area is shown in Attachment 3A of this Rate and Method of Apportionment of Special Tax and Reimbursements.

“Tax Area B” means parcels within the Pelandale-Snyder Specific Plan Area, which Area is shown in Attachment 3B of this Rate and Method of Apportionment of Special Tax and Reimbursements.

B. ANNUAL MONITORING

The Administrator shall keep an ongoing record of the Acreage and current Assessor’s Parcel numbers within Tax Area A and Tax Area B and, after July 1 of each Fiscal Year, shall identify the Assessor’s Parcels which have become Subdivided Property and, therefore, will be subject to the levy of the Maintenance Special Tax in that Fiscal Year. The Administrator shall also continually monitor Subdivided Property to ensure the Facilities Special Tax is collected prior to final building permit inspection or issuance of a certificate of occupancy (whichever occurs first), unless the Parcel qualifies for a Special Tax Credit, as discussed further in Section D below.

C. MAXIMUM SPECIAL TAX

1. *Facilities Special Tax*

The maximum 1998 Facilities Special Tax for Original Parcels in CFD No. 1998-2 when the CFD was formed is shown in Attachment 2. Each time a Final Map is approved within the CFD or when Parcels in the CFD are otherwise subdivided or reconfigured, the Administrator shall reallocate the maximum Facilities Special Tax assigned to each Original Parcel to the Subsequent Parcels created by approval of the Final Map as follows:

- Step 1a. Identify the maximum Facilities Special Tax applicable to the Original Parcel being subdivided (the maximum Facilities Special Tax for Original Parcels in the CFD when the CFD was formed are shown in Attachment 2);
- Step 1b. Determine the Acreage of Taxable Property within the approved Final Map;
- Step 1c. Determine the total Acreage of Taxable Property within the Original Parcel being subdivided, including the Taxable Property within the Final Map;

- Step 1d. Divide the Acreage determined in Step 1b by the total Acreage of the Original Parcel determined in Step 1c to calculate a percentage;
- Step 1e. Multiply the percentage determined in Step 1d by the amount identified in Step 1a to calculate the maximum Facilities Special Tax to be allocated to the Final Map area. If a Final Map is approved for a portion of an Original Parcel, the maximum Facilities Special Tax that has not been allocated to the Final Map area will stay assigned to the remainder of the Taxable Property within the Original Parcel until it is further subdivided;
- Step 1f. Spread the maximum Facilities Special Tax calculated in Step 1e to each of the Successor Parcels within the Final Map area based on each Successor Parcel's share of the Acreage of Taxable Property within the Final Map.

After each reallocation of the maximum Facilities Special Tax upon subdivision or reconfiguration of Original Parcels, the sum of the maximum Facilities Special Tax assigned to Subsequent Parcels shall never be less than the maximum Facilities Special Tax assigned to the Original Parcel(s) prior to such reallocation. Beginning in January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. *Annual Maintenance Special Tax*

All Subdivided Property within the CFD shall be subject to an Annual Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1998-2 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner. The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1998-2 for Fiscal Year 1998-99:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre
* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.		

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain builders/developers may be required to pay CFD Costs and fund and construct Authorized Facilities that are ultimately intended to be funded from Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, which will ensure that builders/developers that pay more than their fair share of the CFD Costs and/or Authorized Facilities costs will be reimbursed for the overage.

At the request of the landowners and developers at the time this Rate and Method of Apportionment was prepared and CFD No. 1998-2 was formed, all credits and reimbursements to builder/developers who provide Authorized Facilities shall be in amounts equal to the costs set forth for those Authorized Facilities in the CFD Public Report (except as adjusted as described below). Pursuant to this request, whether the actual cost to build an Authorized Facility is higher or lower than the amount shown in the CFD Public Report for that Authorized Facility, a builder/developer shall be credited and/or reimbursed for the dollar amount included in the CFD Public Report for that Authorized Facility. If there is a cost savings for one Authorized Facility and a cost overrun for another, there is no opportunity pursuant to this Rate and Method of Apportionment for the cost savings to offset the cost overrun.

The following steps shall be applied to implement the credit/reimbursement program:

On an Ongoing Basis

- In January 2002 and each January thereafter, the Administrator shall escalate the following items by four percent (4%): (i) the Facilities Special Tax assigned to each Parcel, (ii) the Credit/Reimbursement Amount outstanding for any builder/developer, and (iii) the costs of Authorized Facilities that have not yet been constructed. An updated list of these three items shall be available each year by February 15.

- The Administrator will keep a current list of the adjustments that have been applied in each year to the items listed above.
- The Administrator will keep track of which Authorized Facilities shown in Attachment 1 have been fully credited or reimbursed to establish the next Authorized Facility to be funded according to the Order of Priority.
- For builder/developers who pay more than their pro-rata share of the cost of particular Authorized Facilities and/or CFD Costs and are due a reimbursement after applying Special Tax Credits, the Administrator shall keep track of the date on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) to ensure that reimbursements of costs that fall within the same Order of Priority will be made on a first incurred/first paid basis.

When a Final Map is Approved by the City Council:

- Step 1.* The Administrator shall determine which Authorized Facilities the builder/developer subdividing the property has funded;
- Step 2.* The Administrator shall determine the Order of Priority for the Authorized Facilities funded by the builder/developer. If the improvements are not first in the Order of Priority, the Administrator shall determine whether facilities that are of a higher priority have yet been fully reimbursed or credited;
- Step 3.* By reference to the detailed cost estimates set forth in the CFD Public Report, the Administrator shall determine the estimated 1998 cost that had been included in the maximum Facilities Special Tax for the Authorized Facilities provided by the builder/developer;
- Step 4.* Using 2002 as the first year of escalation, the Administrator shall escalate the cost of the Authorized Facilities (as shown in the CFD Public Report) provided by the builder/developer to the year in which the Credit/Reimbursement Amount is being calculated. This escalation shall apply on an annual basis (i.e., subtract 2001 from the then current year to determine how many years worth of escalation to apply) and shall be compounded in the same manner as the Facilities Special Tax has been escalated. This escalated cost represents the total Credit/Reimbursement Amount due to the builder/developer, the balance of which, as of the year 2002 and each year following, shall be escalated by four percent (4%) each year until fully reimbursed or credited against Facilities Special Taxes paid by the builder/developer.

Prior to final building permit inspection or issuance of a certificate of occupancy
(whichever occurs first)

Note: the following steps may be applied to a single Parcel or a group of Parcels (i.e., all residential lots within a particular Final Map)

The Administrator shall determine if the builder/developer has an outstanding Credit/Reimbursement Amount and apply one of the following:

Step 1. If there is an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps to determine if a Facilities Special Tax is due from the subject Parcel(s):

Step 1a. Identify the Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding;

Step 1b. Multiply the amount determined in Step 1a by .07 to calculate the Administration Component, which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 1c. Subtract the Administration Component calculated in Step 1b from the Facilities Special Tax identified in Step 1a to calculate the net amount that could be collected for facility costs, and apply one of the following:

- *If the net amount determined in Step 1c is less than the outstanding Credit/Reimbursement Amount for the builder/developer, the Administration Component calculated in Step 1b shall be collected and the builder/developer shall be given a Special Tax Credit against the remainder of the Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract that amount from the outstanding Credit/Reimbursement Amount for that builder/developer.*
- *If the net amount determined in Step 1c is greater than the outstanding Credit/Reimbursement Amount for the builder/developer, subtract the outstanding Credit/Reimbursement Amount from the net amount of Facilities Special Tax calculated in Step 1c to determine the amount that must be paid by the builder/developer. If the calculation is being prepared*

for multiple Parcels at one time, the builder/developer may use up the remaining Credit/Reimbursement Amount by taking Special Tax Credits against the first lots to develop and pay the remaining balance when the subsequent lots develop. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that builder/developer.

Step 2. If there is not an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps:

Step 2a. Identify the Facilities Special Tax assigned to the Parcel(s), which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 2b. Multiply the amount determined in Step 2a by .07 to calculate the Administration Component, which shall remain on deposit with the City;

Step 2c. Subtract the Administration Component calculated in Step 2b from the Facilities Special Tax identified in Step 2a to calculate the net amount that shall be collected to provide reimbursements to builder/developers with outstanding Credit/Reimbursement Amounts;

Step 2d. Determine whether there is an outstanding Credit/Reimbursement Amount due other builder/developers in the CFD and apply one of the following:

- *If there are outstanding Credit/Reimbursement Amounts*, look at the Order of Priority of the Authorized Facilities for which a Credit/Reimbursement Amount is due. In addition, identify the dates on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) which were provided to each builder/developer for which a Credit/Reimbursement Amount is outstanding. Reimbursements shall be paid based on the Order of Priority and, if there are multiple Credit/Reimbursement Amounts due within the same priority level, based on the date on which a "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" was issued to each

builder/developer. After the reimbursements are made, the Administrator shall reduce the Credit/Reimbursement Amount for the builder/developer(s) who received reimbursement by the amount of such reimbursement.

If there are no outstanding Credit/Reimbursement Amounts due any builder/developer, the City shall deposit the Facilities Special Tax into an account which will be designated for funding the Authorized Facilities. The balance in this fund will be used either to pay directly for the construction of Authorized Facilities or to reimburse a builder/developer who constructs Authorized Facilities in future years. The interest earned on funds in this account shall accrue to the account for the same purposes.

E. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The maximum Facilities Special Tax determined pursuant to Section C above shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure within CFD No. 1998-2 and shall be immediately delinquent if not so paid.

2. Annual Maintenance Special Tax

Commencing with Fiscal Year 1999-00 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Subdivided Property as follows:

Step 1: Calculate the total Maintenance Special Tax revenues that could be collected from Subdivided Property within the CFD based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C.2 above;

Step 2: Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1;

Step 3: If the ratio determined in Step 2 is greater than or equal to 1, levy the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 on all Subdivided Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: If the ratio determined in Step 2 is less than 1, levy the maximum Annual Maintenance Special Tax against all Parcels of Subdivided Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 above until the amount so levied equals the Maintenance Special Tax Requirement for the Fiscal Year.

The Annual Maintenance Special Tax for CFD No. 1998-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1998-2 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes levied on the County tax roll.

In no event shall the Maintenance Special Tax levied and collected in one Tax Area be increased due to delinquencies in the other Tax Area.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax and Reimbursements, no Special Tax shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. No Annual Maintenance Special Tax shall be levied on Church Property unless such Church Property is built on a Parcel or Parcels that had previously been developed with residential or non-residential land uses which had paid the Annual Maintenance Special Tax. The maximum Annual Maintenance Special Tax assigned to such Church Property would be equal to the maximum Annual Maintenance Special Tax that had previously been assigned to the residential or non-residential land uses on the property.

The Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus simple 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 pursuing the delinquency by an action on a contract or 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.

CAFILES\WPWIN\MODESTO\CRVRENGS\RMA7.CLN

ATTACHMENT I

COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER BANGS/PELANDALE-SNYDER) ORDER OF PRIORITY OF AUTHORIZED FACILITIES

First Priority

- Storm drain basin construction (including but not limited to basins, inlet structures, pipelines, and fencing)
- Storm drain trunkline in Snyder Avenue adjacent to school and park sites
- CFD Costs (as identified in the CFD Public Report)
- Engineering design costs for storm drain related improvements (including geotechnical)

Second Priority

- Storm drain basin land purchase for both basins (Van Konynenburg properties), east and west of Modest Irrigation District lateral No. 6

Third Priority

- Storm drain trunk lines (other than trunkline in Snyder Avenue adjacent to school and park sites)

[Note that storm drain trunk lines are specific to each tax area and will remain a third priority within a tax area until all trunk lines within that tax area are credited or reimbursed.]

Fourth Priority

- Storm drain pump station, piping and landscaping around storm drainage basin

Fifth Priority, Tax Area A (Carver Bangs)

- Bike trail
- American Avenue
- Prescott Road
- Bangs Avenue
- Carver Road
- American Avenue crossing of Modest Irrigation District lateral No. 6
- Pedestrian bridge crossing of Modesto Irrigation District lateral No. 6

Fifth Priority, Tax Area B (Pelandale-Snyder)

- Bike trail
- Dale Road
- Prescott Road
- Tully Road
- Snyder Avenue (opposite)
- Tully/Snyder traffic signal

ATTACHMENT 2
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
MAXIMUM FACILITIES SPECIAL TAX

		<u>Carver- Bangs</u>	<u>Pelandale- Snyder</u>
Infrastructure Costs, other than Storm Drainage		\$986,097	\$3,494,846
Plus: Administration 7.00%		<u>\$69,027</u>	<u>\$244,639</u>
Subtotal, Costs other than Storm Drainage		\$1,055,124	\$3,739,485
Storm Drainage Costs		\$1,494,750	\$4,389,042
Plus: Administration 7.00%		<u>\$104,633</u>	<u>\$307,233</u>
Subtotal, Storm Drainage Costs		\$1,599,383	\$4,696,275
Total Costs Assigned to Tax Area		\$2,654,506	\$8,435,760
Total Net Acreage Contributing to Non-Drainage Facilities		137.44	298.40
One-Time Special Tax per Net Acre for non-Drainage		\$7,677	\$12,532
Total Net Acreage Contributing to Storm Drainage		137.44	317.73
One-Time Special Tax per Net Acre for Storm Drainage		\$11,637	\$14,781
<u>Assessor Parcel No.</u>	<u>Property Owner</u>	<u>Net Acreage</u>	<u>1998 Maximum Facilities Special Tax/1</u>
<u>Tax Area A, Carver-Bangs</u>			
78 12 02	Calvary Chapel	0.89	\$17,189
78 18 23	Calvary Chapel	14.19	\$274,065
78 18 24	William Han	28.90	\$558,173
78 18 14	Lowry, Luscher, Donovan	22.60	\$436,495
46 07 15	Kaufman & Broad	16.39	\$316,555
46 07 16	Elaine Fowler	18.11	\$349,775
46 07 18	Ronald Malik	8.75	\$168,997
46 07 19	Ronald Malik	19.30	\$372,759
46 07 20	Ronald Malik	<u>8.31</u>	<u>\$160,499</u>
Total, Carver-Bangs		137.44	\$2,654,506
<u>Tax Area B, Pelandale-Snyder</u>			
78 18 06	TRS Enterprises	35.45	\$968,228
78 18 7	Vossoughi Investments	18.67	\$509,924
78 18 22	Rodney K. Lowe, Inc.	18.35	\$501,184
78 18 28	Corn-Harris Development	20.62	\$563,184
78 18 12	Resource Development	24.08	\$657,685
46 07 17	Marlene Johnston, et. al.	16.22	\$443,009
46 07 11	Verna Mae Johnson Trust	17.95	\$490,259
46 07 12	William P. Couture	35.65	\$973,691
46 07 22	Red Rock Ranch	13.05	\$356,428
46 07 09	Walker Family Partnership	26.90	\$734,706
46 07 07	Resource Development	13.89	\$379,371
46 07 06	Resource Development	4.58	\$125,091
46 07 08	Brent & Diana Holtz	18.62	\$508,559
46 03 02	Big Valley Grace Comm. Church	7.20	\$196,650
46 03 06	Big Valley Grace Comm. Church	9.07	\$247,724
46 03 07	Big Valley Grace Comm. Church	18.10	\$494,356
46 03 09	Big Valley Grace Comm. Church	<u>19.33</u>	<u>\$285,711</u>
Total, Pelandale-Snyder		317.73	\$8,435,760

/1 Maximum taxes shall be increased each year by four percent of the amount in effect in the prior year.

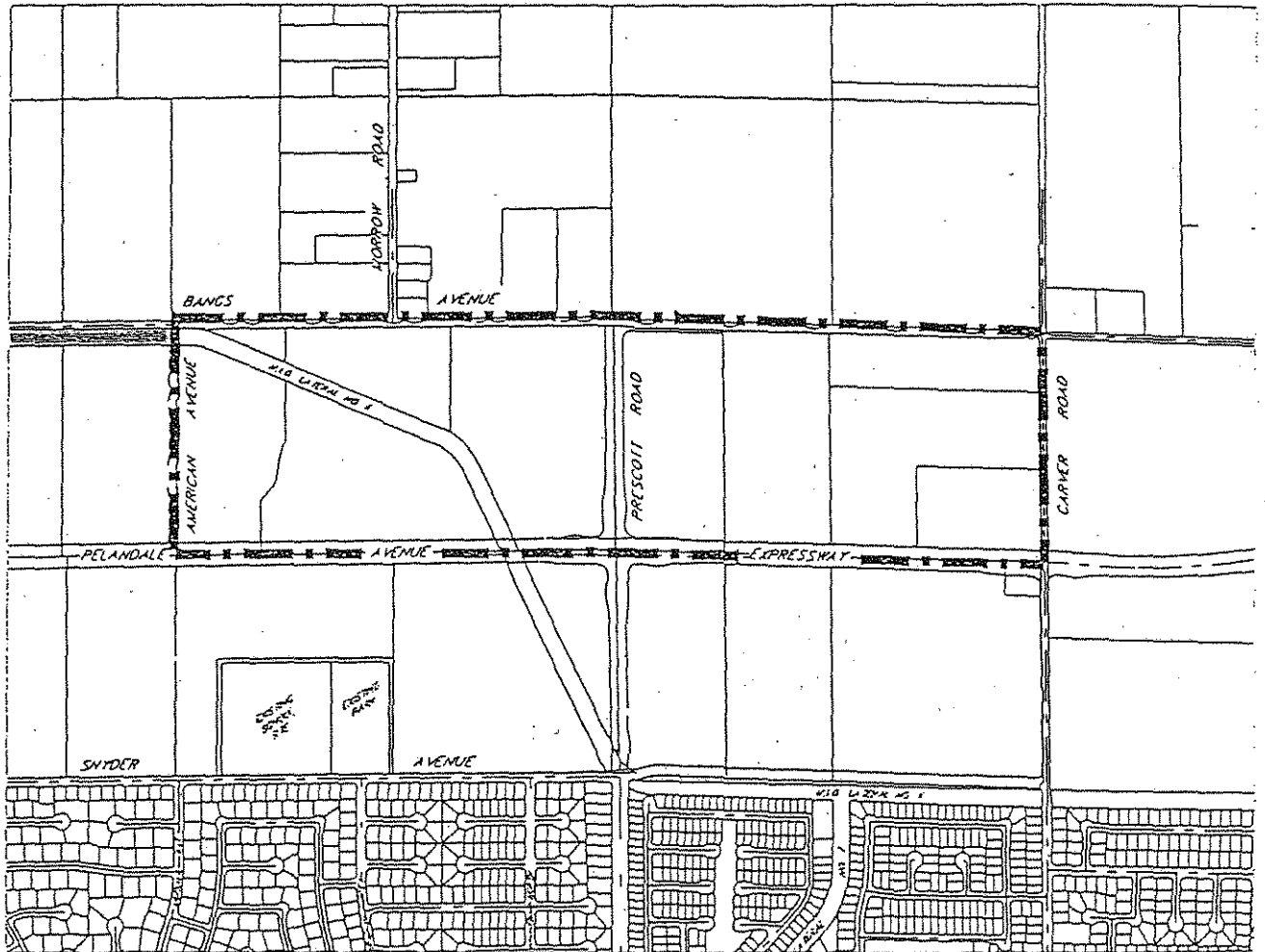
ATTACHMENT 3

COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER BANGS/PELANDALE-SNYDER)

IDENTIFICATION OF TAX AREA A AND TAX AREA B

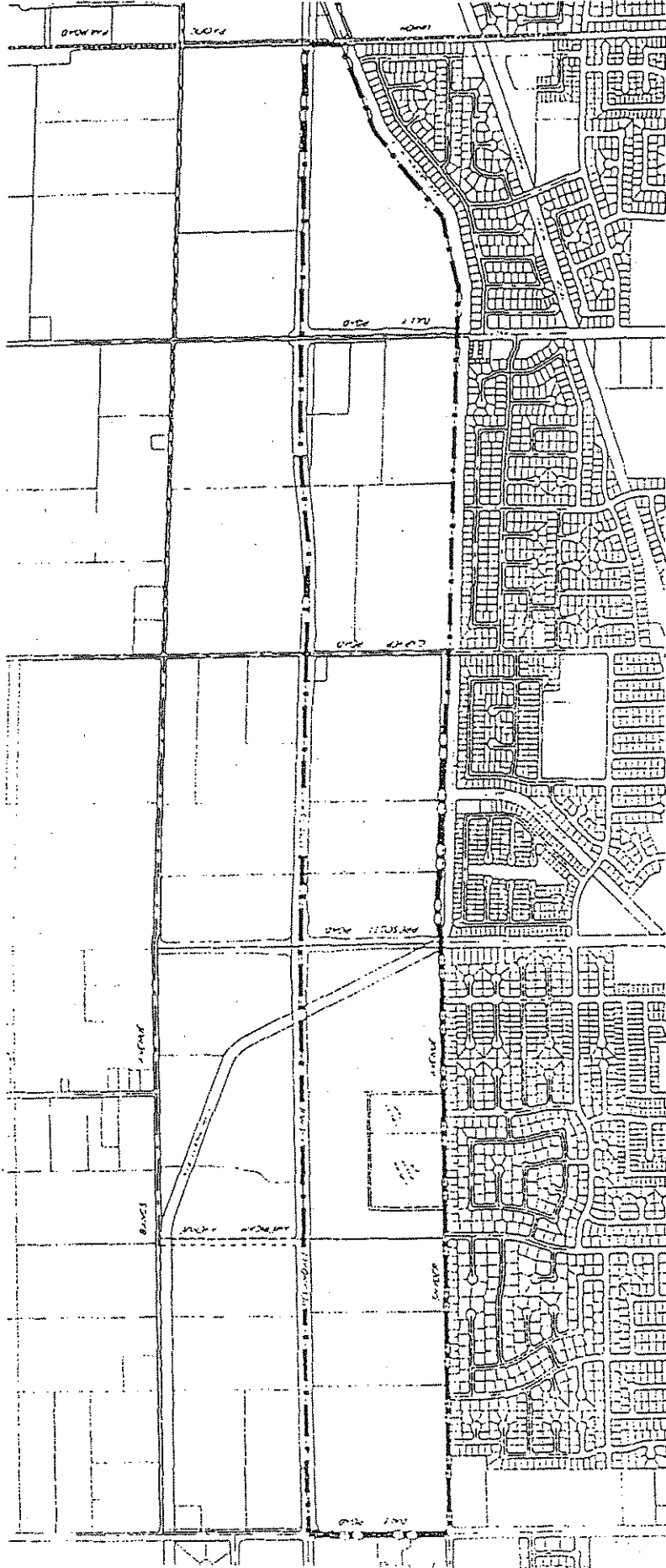
COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "A"



COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "B"

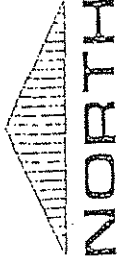


Drawn: JRM
Date: 10-19-98
Scale:
Job No.: 1998-2
Sheet: 1 of 1

C.F.D. 1998-2
(CARVER-BANGSI
PELANDALE-SNYDER)
ATTACHMENT 3B

mid valley
Engineering
900 H ST STE. C, MODESTO, CALIFORNIA 95354
(209) 576-4214

FAX (209) 576-0803
SHEET 1 OF 1



APPENDIX C

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

DETAILED FACILITY COST ESTIMATES

**CARVER-BANGS
(TAX AREA A)**

DETAILED FACILITY COST ESTIMATES

**CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT (CFD) 1998-2
SUMMARY**

I. CARVER / BANGS SPECIFIC PLAN AREA

TOTAL ESTIMATED CFD COSTS

\$ 2,480,847
\$2,424,418

A. C.F.D. FEE PER NET ACRE

\$2,424,418 / 137.44 NET ACRES = COST PER NET ACRE =====>

\$17,640

B. ANNUAL LANDSCAPE MAINTENANCE COSTS PER NET ACRE

COST PER NET ACRE =====>

\$715

CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
CFD REIMBURSEMENT PRIORITY

I. ORDER OF REIMBURSEMENT AND/OR CREDIT

A. FIRST PRIORITY

1. STORM DRAIN BASIN CONSTRUCTION (INCLUDING BUT NOT LIMITED TO BASINS, INLET STRUCTURES, PIPELINES, AND FENCING)
2. STORM DRAIN TRUNKLINE IN SNYDER AVENUE ADJACENT TO SCHOOL AND PARK SITES.
3. ALL CFD RELATED FORMATION COSTS (I.E., CITY OF MODESTO, DAVID TAUSSIG AND ASSOCIATES, KAUFMAN & BROAD, RON MALIK, MID-VALLEY ENGINEERING, J.B. ANDERSON LAND PLANNING, RUSSELL A. HARRISON, CONSULTING CIVIL ENGINEER, INC., AND HERUM, CRABTREE, DYER, ZOLEZZI AND TERPSTRA).
4. ALL ENGINEERING DESIGN COSTS FOR STORM DRAIN RELATED IMPROVEMENTS (INCLUDING GEOTECHNICAL).

B. SECOND PRIORITY

1. STORM DRAIN BASIN LAND PURCHASE FOR BOTH BASINS (VAN KONYNENBURG PROPERTIES), EAST AND WEST OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

C. THIRD PRIORITY

1. STORM DRAIN TRUNK LINES.

D. FOURTH PRIORITY

1. STORM DRAIN PUMP STATION, PIPING AND LANDSCAPING AROUND THE STORM DRAIN BASIN.

E. FIFTH PRIORITY

1. BIKE TRAIL.
2. AMERICAN AVENUE.
3. PRESCOTT ROAD.
4. BANGS AVENUE.
5. CARVER ROAD.
6. AMERICAN AVENUE CROSSING OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

**CARVER BANGS SPECIFIC PLAN AREA (TAX AREA A)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY**

A.	STORM DRAINAGE	\$1,494,750
B.	PRESCOTT ROAD	\$145,422
C.	AMERICAN AVENUE	\$24,033
D.	BANGS AVENUE	\$254,305
E.	CARVER ROAD	\$57,270
F.	AMERICAN AVENUE CANAL CROSSING	\$295,066
G.	CLASS I BIKE TRAIL	\$142,500
H.	FORMATION COSTS	\$67,500
TOTAL CFD COSTS ==		\$2,480,847

NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE COSTS IS ESTIMATED AT \$751 PER ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF PELANDALE-SNYDER
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. <u>STORM DRAIN TRUNK LINES</u>					
A. <u>CONSTRUCTION</u>					
1.	30" STORM	2,549	LF	\$100.00	\$254,900
2.	36" STORM	1,279	LF	\$121.00	\$154,759
3.	48" STORM	597	LF	\$161.00	\$96,117
4.	SHARE OF 54" STORM DRAIN TO BASIN	46	LF	\$182.00	\$8,372
5.	MANHOLES	14	EA	\$5,750.00	\$80,500
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$594,648
10% CONTINGENCY =====>					\$59,465
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$654,113
II. <u>STORM DRAINAGE BASIN FACILITIES</u>					
A. <u>CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	42,628	CY	\$6.00	\$255,768
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$165,445.00	\$165,445
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$8,943.00	\$8,943
4.	FENCING	1,227	LF	\$16.00	\$19,632
5.	LANDSCAPING	10,433	SF	\$2.80	\$29,212
6.	INLETS	LUMP SUM	LS	\$2,981.00	\$2,981
7.	STRIPPING / CLEARING / DISCING	LUMP SUM	LS	\$2,981.00	\$2,981
SUB-TOTAL STORM DRAIN BASIN FACILITIES =====>					\$484,962
10% CONTINGENCY =====>					\$48,496
TOTAL STORM DRAIN BASIN FACILITIES =====>					\$533,459
B. <u>FEES</u>					
1.	ENGINEERING	1	EST	\$29,808.00	\$29,808
2.	STAKING	1	EST	\$14,755.00	\$14,755
3.	CONSTRUCTION MANAGEMENT	1	EST	\$19,873.00	\$19,873
4.	GEOTECHNICAL	1	EST	\$5,365.00	\$5,365
TOTAL FEES =====>					\$64,436

Carver-Bangs Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. LAND ACQUISITION					
1.	LAND PURCHASE	29.61% OF TOTAL COST OF \$1,030,239 =			\$305,054
2.	ADMINISTRATION	LUMP SUM LS \$2,125,00			\$2,125
TOTAL LAND ACQUISITION ==>					\$307,179
GRAND TOTAL ==>					\$1,494,750

NOTES:

1. THE CARVER-BANGS PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCE WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENTS THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

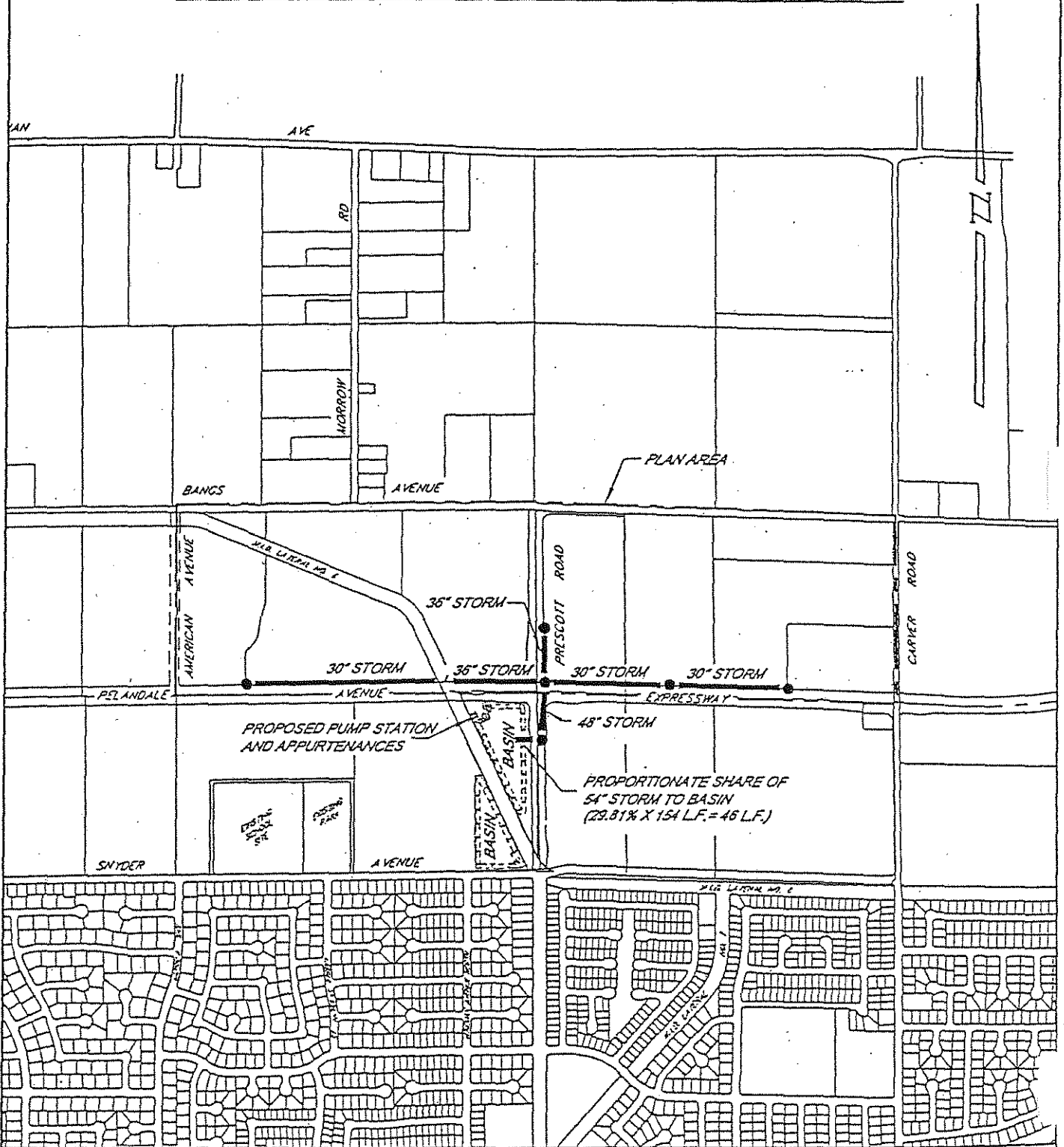
PELANDALE / SNYDER	357.48
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	
	509.26

B. CARVER / BANGS PROPORTIONATE SHARE

151.80 / 509.26 =	29.81%
-------------------	--------

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER AND CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID-VALLEY ENGINEERING, INC.
3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE DOW DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AREA GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

STORM DRAIN SYSTEM



Drawn by J. FREITAS

Date 4-29-98

Scale

FIGURE 1
CARVER BANGS



FAX (209) 526-0803

SHEET

1

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD (20' CFD PORTION)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,323' C.L. TO C.L.)
(REFERENCE FIGURE 2)

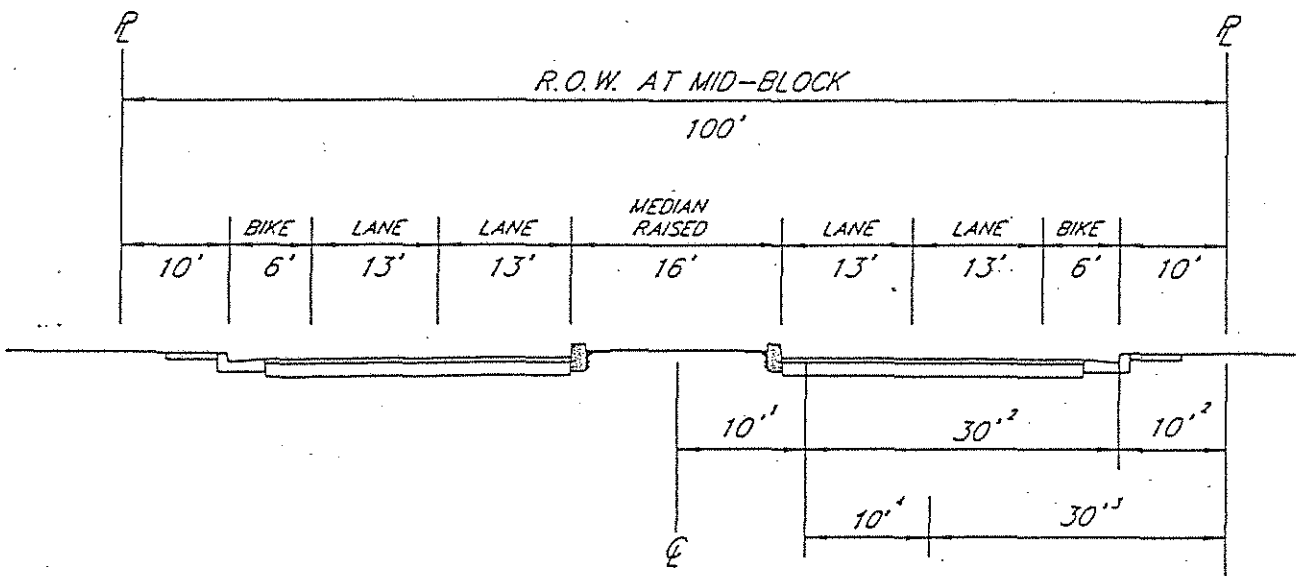
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (20' CFD PORTION)					
1.	CLEARING AND GRADING	24,675	SF	\$0.60	\$14,805
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	24,675	SF	\$2.00	\$49,350
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	200	LF	\$30.00	\$6,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	24,675	SF	\$0.02	\$494
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COST)	1	EST	\$3,207.75	\$3,208
CONSTRUCTION TOTAL =====>					\$81,856
15% CONTINGENCY =====>					\$12,278
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$94,135
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$5,648.08	\$5,648
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$2,824.04	\$2,824
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$3,765.39	\$3,765
TOTAL FEES =====>					\$12,238
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.57	AC	\$65,000.00	\$37,050
2.	RIGHT-OF-WAY ADMINISTRATION		LUMP SUM LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$39,050
GRAND TOTAL =====>					\$145,422

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF PRESCOTT ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 2).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC.

PRESCOTT ROAD SECTION

(MID-BLOCK)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.FREITAS
Date	4-29-98
Scale	

FIGURE 2
CARVER BANGS



CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE (2' CFD PORTION HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 3)

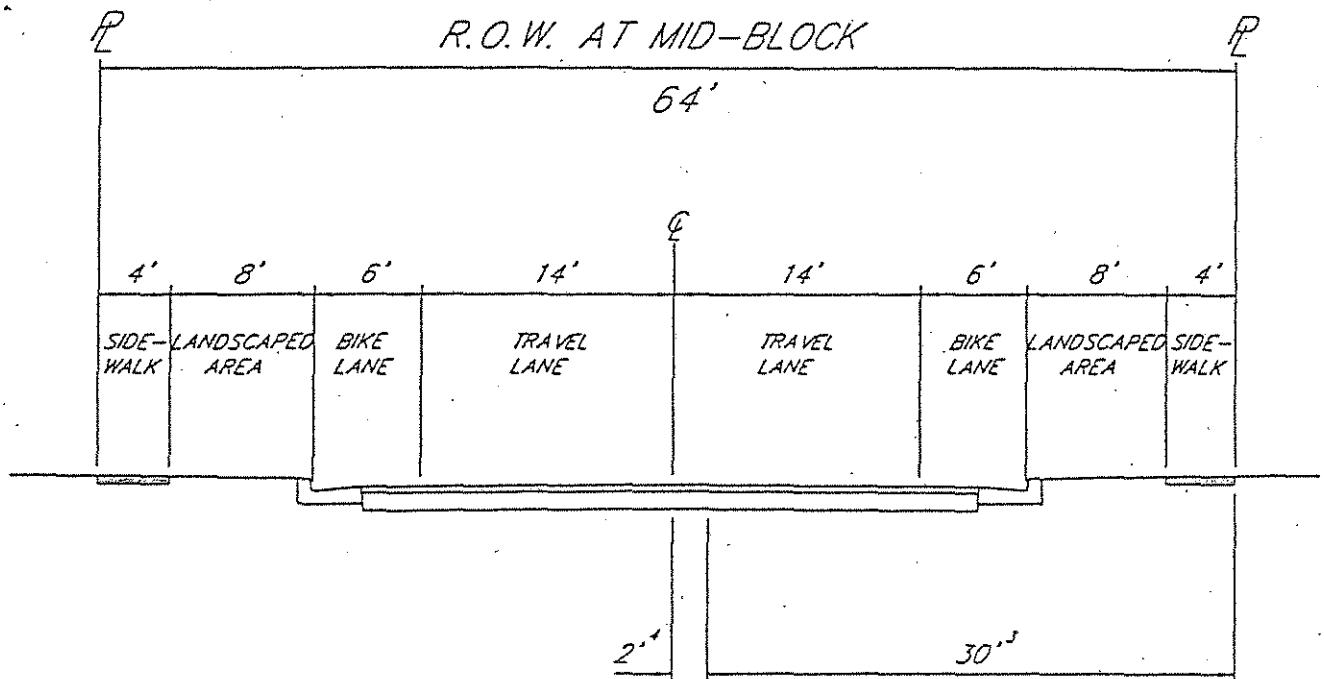
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	2,535	SF	\$0.35	\$887
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	2,535	SF	\$1.75	\$4,436
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	LUMP SUM	LS	\$100.00	\$100
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	LUMP SUM	LS	\$300.00	\$300
CONSTRUCTION TOTAL =====>					\$14,724
15% CONTINGENCY =====>					\$2,209
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$16,932
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$1,015.92	\$1,016
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$507.96	\$508
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$677.28	\$677
TOTAL FEES =====>					\$2,201
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.06	AC	\$65,000.00	\$3,900
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,000.00	\$1,000
TOTAL LAND ACQUISITION =====>					\$4,900
GRAND TOTAL =====>					\$24,033

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF AMERICAN AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 3).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC.

AMERICAN AVENUE SECTION

(MID-BLOCK-LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.R.M.
Date	7-28-98
Scale	

FIGURE 3

CARVER RANGS



FAX (209)
526-0803

SHEET
1

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BANGS AVENUE (9' CFD PORTION, HALF SECTION ONLY)
FROM
AMERICAN AVENUE TO CARVER ROAD (5,350' C.L. TO C.L.)
(REFERENCE FIGURE 4)

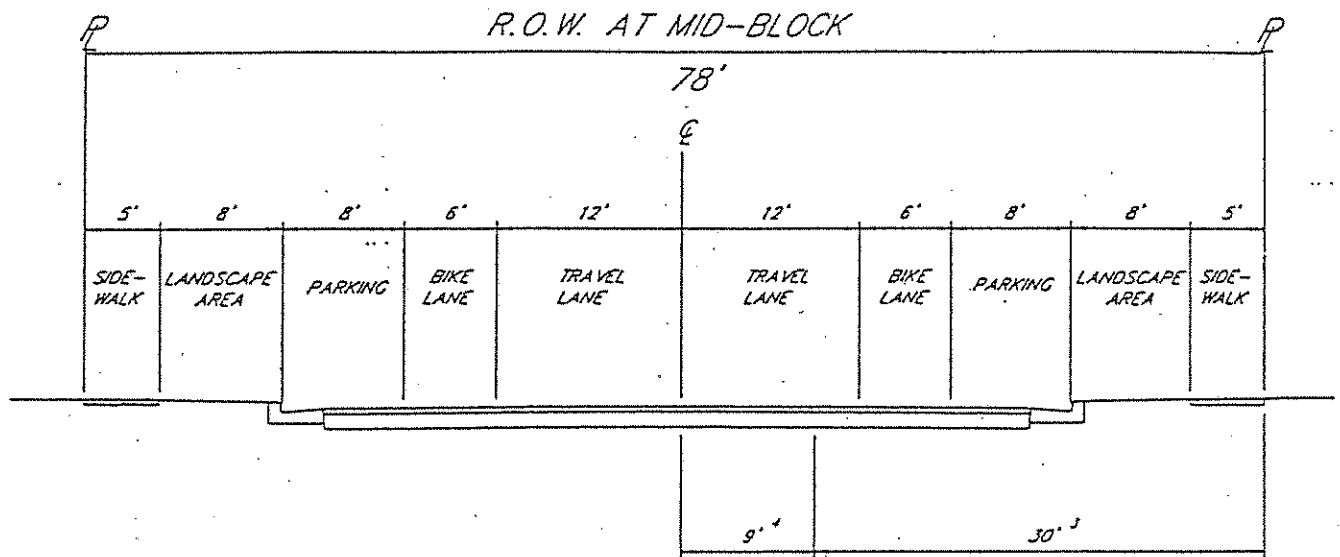
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	48,150	SF	\$0.35	\$16,853
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	48,150	SF	\$1.75	\$84,263
3.	STORM DRAINAGE				
a.	CATCH BASINS	7	EA	\$1,000.00	\$7,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	350	LF	\$30.00	\$10,500
c.	MANHOLES	7	EA	\$2,000.00	\$14,000
4.	PRIME COAT	48,150	SF	\$0.02	\$963
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$5,055.75	\$5,056
CONSTRUCTION TOTAL =====>					\$138,634
15% CONTINGENCY =====>					\$20,795
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$159,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,565.73	\$9,566
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,782.86	\$4,783
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,377.15	\$6,377
TOTAL FEES =====>					\$20,726
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.11	AC	\$65,000.00	\$72,150
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$74,150
GRAND TOTAL =====>					\$254,305

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF BANGS AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 4).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R VALUE ASSUMPTIONS WERE DERIVED FROM SOIL S REPORTS PREPARED BY KI EINFELDER, INC.

BANGS AVENUE SECTION

(MID-BLOCK LOOKING EAST)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFF.

Drawn	J.R.M.
Date	7-28-98
Scale	

FIGURE 4
CARVER BANGS



CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CARVER ROAD (9' CFD PORTION, HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE
(REFERENCE FIGURE 5)

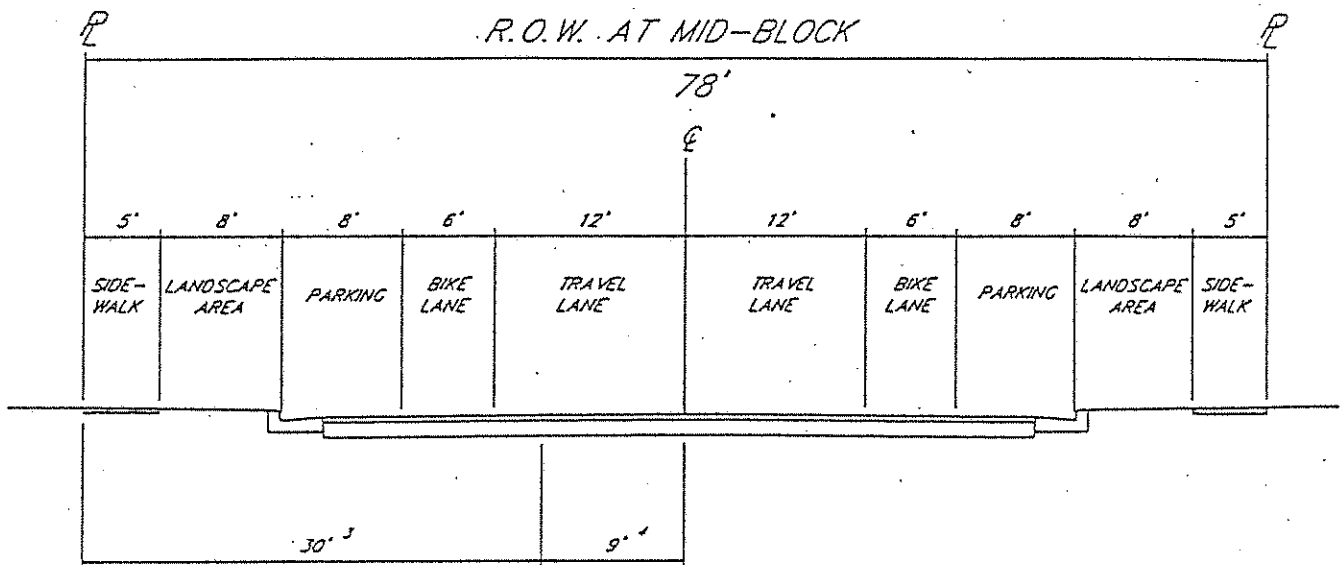
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (6' CFD PORTION)					
1.	CLEARING AND GRADING	9,900	SF	\$0.35	\$3,465
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	9,900	SF	\$1.75	\$17,325
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	9,900	SF	\$0.02	\$198
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$1,039.50	\$1,040
CONSTRUCTION TOTAL =====>					\$31,028
15% CONTINGENCY =====>					\$4,654
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$35,682
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,140.90	\$2,141
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,070.45	\$1,070
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,427.27	\$1,427
TOTAL FEES =====>					\$4,639
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.23	AC	\$65,000.00	\$14,950
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$16,950
GRAND TOTAL =====>					\$57,270

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF CARVER ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 5).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

CARVER ROAD SECTION

(MID-BLOCK LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.R.M.
Date	7-28-98
Scale	

FIGURE 5
CARVER BANGS



FAX (209)
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SHEET
1

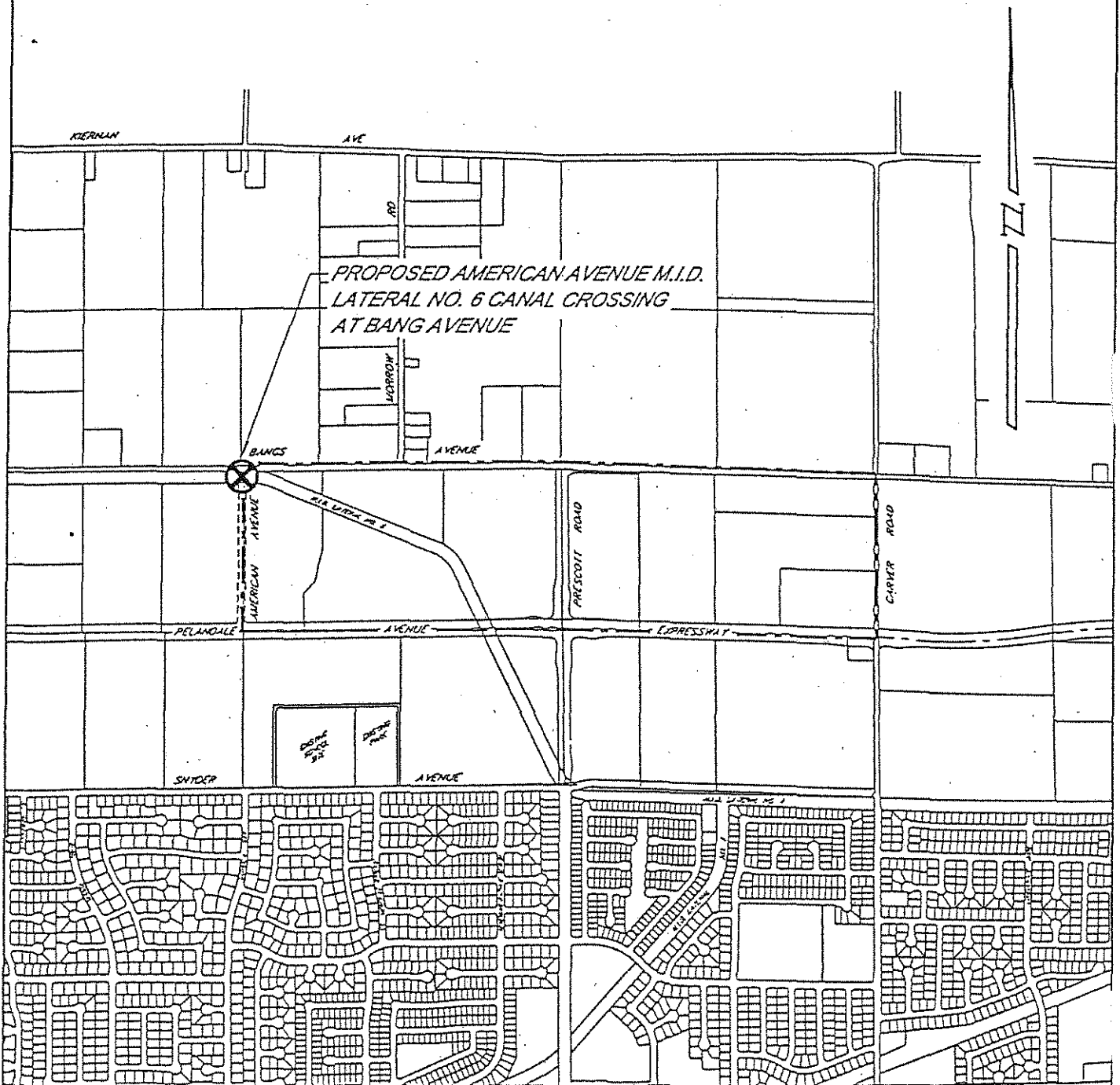
CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
CULVERT CROSSING AT BANGS AVENUE
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION					
1.	CLEARING AND GRADING	LUMP SUM	LS	\$15,000.00	\$15,000
2.	EARTHWORK	LUMP SUM	LS	\$23,750.00	\$23,750
3.	CAST-IN-PLACE REINFORCED CONCRETE 4.5' x 12' DOUBLE BOX CULVERT	LUMP SUM	LS	\$125,000.00	\$125,000
4.	INLET STRUCTURE	1	EA	\$21,200.00	\$21,200
5.	OUTLET STRUCTURE	1	EA	\$21,200.00	\$21,200
6.	FENCING	LUMP SUM	LS	\$4,370.00	\$4,370
7.	UTILITY RELOCATION	1	EST	\$10,000.00	\$10,000
CONSTRUCTION TOTAL =====>					\$220,520
15% CONTINGENCY =====>					\$33,078
TOTAL CONSTRUCTION FOR AMERICAN AVENUE CULVERT CROSSING =====>					\$253,598
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,215.88	\$15,216
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,607.94	\$7,608
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,143.92	\$10,144
4.	GEOTECHNICAL	1	EST	\$5,000.00	\$5,000
5.	MID PERMITTING	1	EST	\$3,500.00	\$3,500
TOTAL FEES =====>					\$41,468
GRAND TOTAL =====>					\$295,066

NOTES:

1. THE ABOVE ESTIMATE INCLUDES THE COST TO INSTALL AN ULTIMATE CROSSING TO ACCOMMODATE THE 64' ULTIMATE AMERICAN AVENUE CROSS SECTION AS SHOWN ON EXHIBIT 4-5 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN.

M.I.D. LATERAL NO. 6 AMERICAN AVENUE CANAL CROSSING



Drawn J.FREITAS

Date 4-29-98

Scale

FIGURE 6
CARVER BANGS



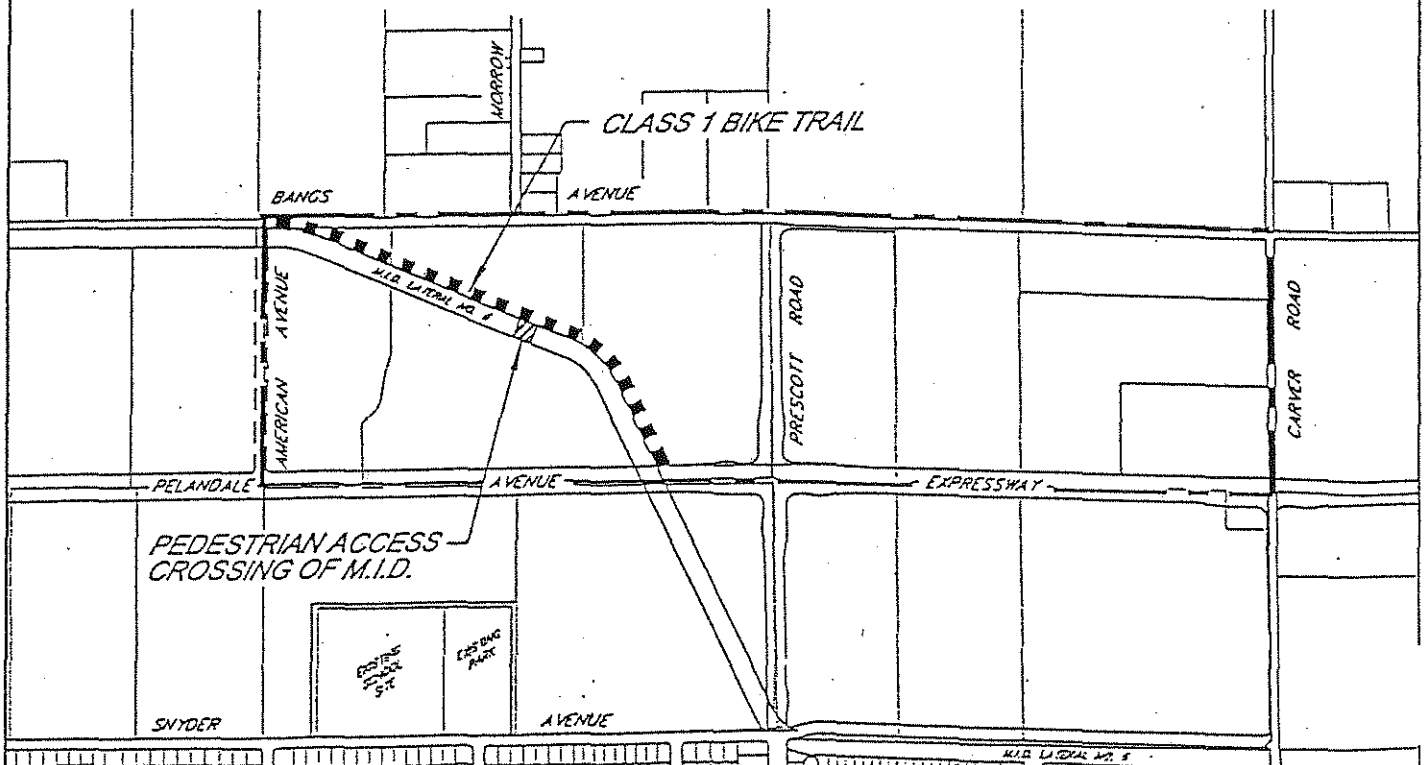
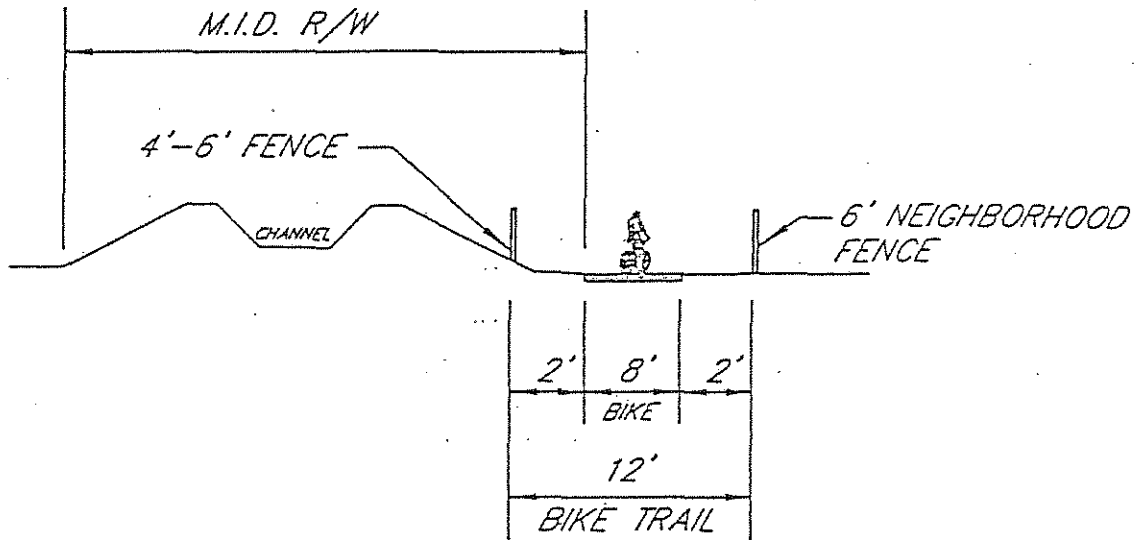
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SHEET
1

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CLASS I BIKE TRAIL
AND
PEDESTRIAN ACCESS CROSSING OF
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
(REFERENCE FIGURE 7)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 12' BIKE TRAIL SYSTEM (8' PATH WITH TWO-2' SHOULDER AREAS) IN ACCORDANCE WITH EXHIBIT 4-7 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN				
2.	TOTAL LENGTH 2180 L.F. OR 0.413 MILES				
3.	THE CITY'S CFF PROGRAM HAS THE FOLLOWING CLASS I BIKE TRAIL COSTS INCLUDED:				
	<u>Existing CFF Portion</u>				
	0.413 Miles x \$105,600 =				\$43,613
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH	17,440	SF	\$2.00	\$34,880
2.	2' GRAVEL SHOULDER EACH SIDE (2" DECOMPOSED GRANITE)	8,720	SF	\$0.30	\$2,616
3.	4-6' FENCE	2,180	LF	\$16.00	\$34,880
4.	PEDESTRIAN ACCESS CROSSING	LUMP SUM	LS	\$50,000.00	\$50,000
					CONSTRUCTION TOTAL =====>
					\$122,376
					10% CONTINGENCY =====>
					\$12,238
					TOTAL BIKE PATH =====>
					\$134,614
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$8,076.82	\$8,077
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,038.41	\$4,038
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,384.54	\$5,385
					TOTAL FEES =====>
					\$17,500
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION (10' WIDE; ASSUME 2' JOINT USE OF EXISTING MID RIGHT-OF-WAY)	0.50	AC	\$65,000.00	\$32,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,500.00	\$1,500
					TOTAL LAND ACQUISITION =====>
					\$34,000
					GRAND TOTAL =====>
					\$186,113
					CFF PORTION =====>
					\$43,613
					TOTAL CARVER BANGS CFD PORTION =====>
					\$142,500

CLASS 1 BIKE PATH / PEDESTRIAN ACCESS CROSSING OF M.I.D. NO.6



Drawn J.R.M.

Date 7-28-98

Scale

FIGURE 7
CARVER BANGS



FAX (209) 526-0803

SHEET 1

PELANDALE-SNYDER
(TAX AREA B)

DETAILED FACILITY COST ESTIMATES

PELANDALE / SNYDER SPECIFIC PLAN AREA (TAX AREA B)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

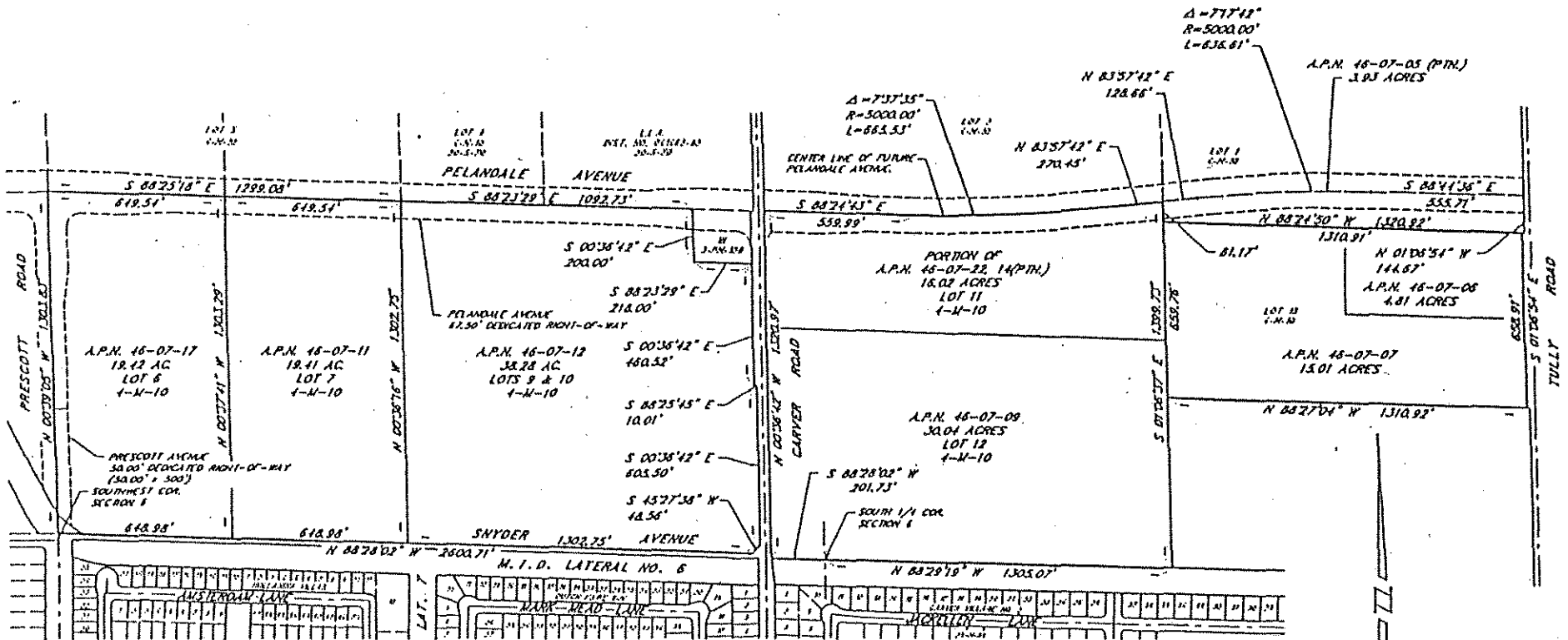
A. STORM DRAINAGE	\$4,389,042 \$4,000,232
B. DALE ROAD	\$531,075
C. PRESCOTT ROAD	\$628,297
D. TULLY ROAD	\$1,011,016
E. SNYDER AVENUE	\$504,283 \$52,743
F. CLASS I BIKE TRAIL	\$752,675
G. FORMATION COSTS	\$67,500

TOTAL CFD COSTS =====>	\$7,043,538 # 7,883,888

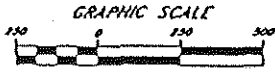
NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR THE PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE AND ADMINISTRATION COSTS ARE ESTIMATED AT \$852 PER NET ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

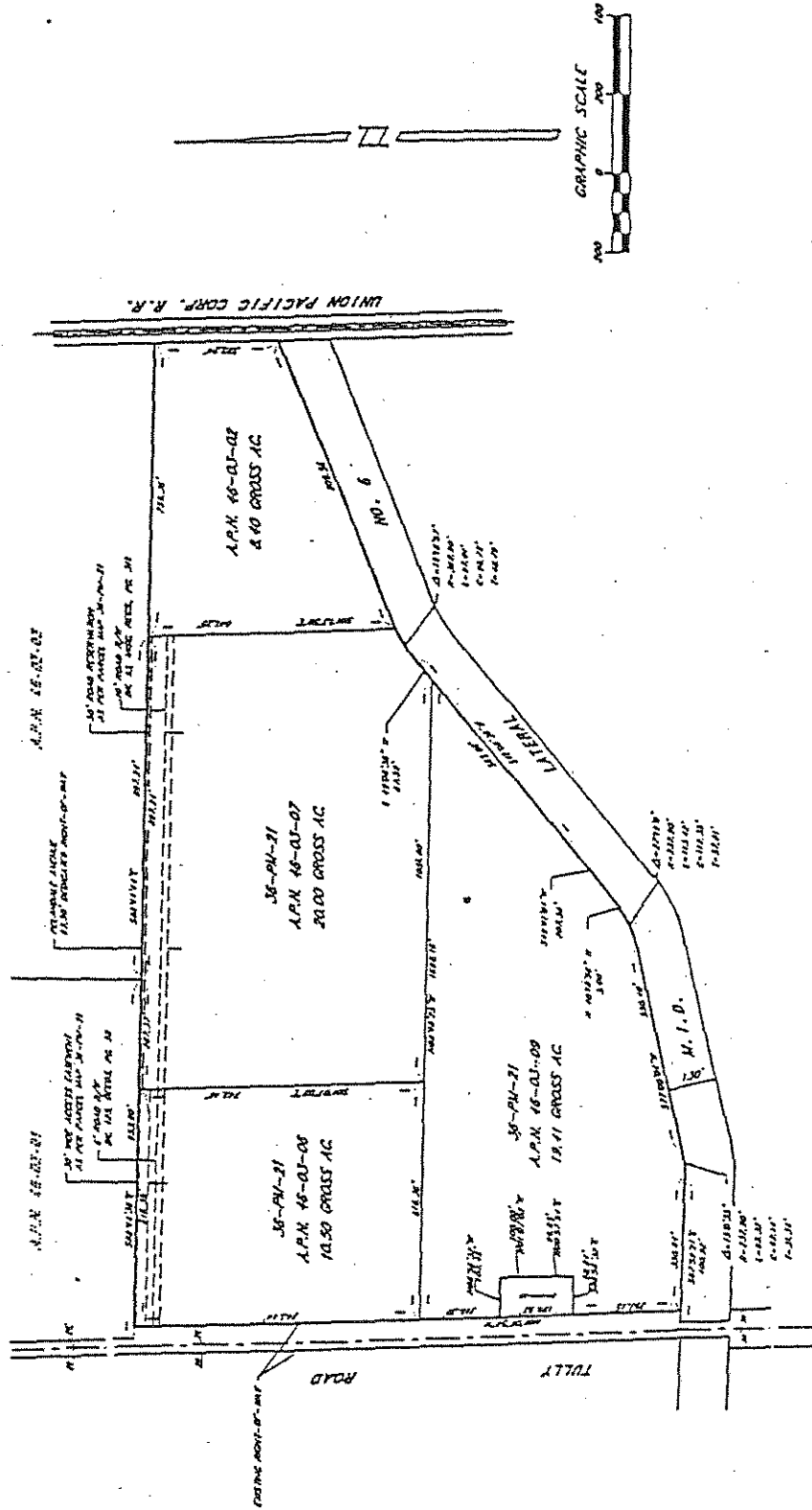
PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
700 N. STREET, SUITE 2 • AMOBIER, CA 95831 • TEL (916) 331-1111 • FAX (916) 331-2221

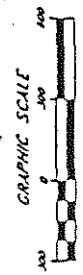
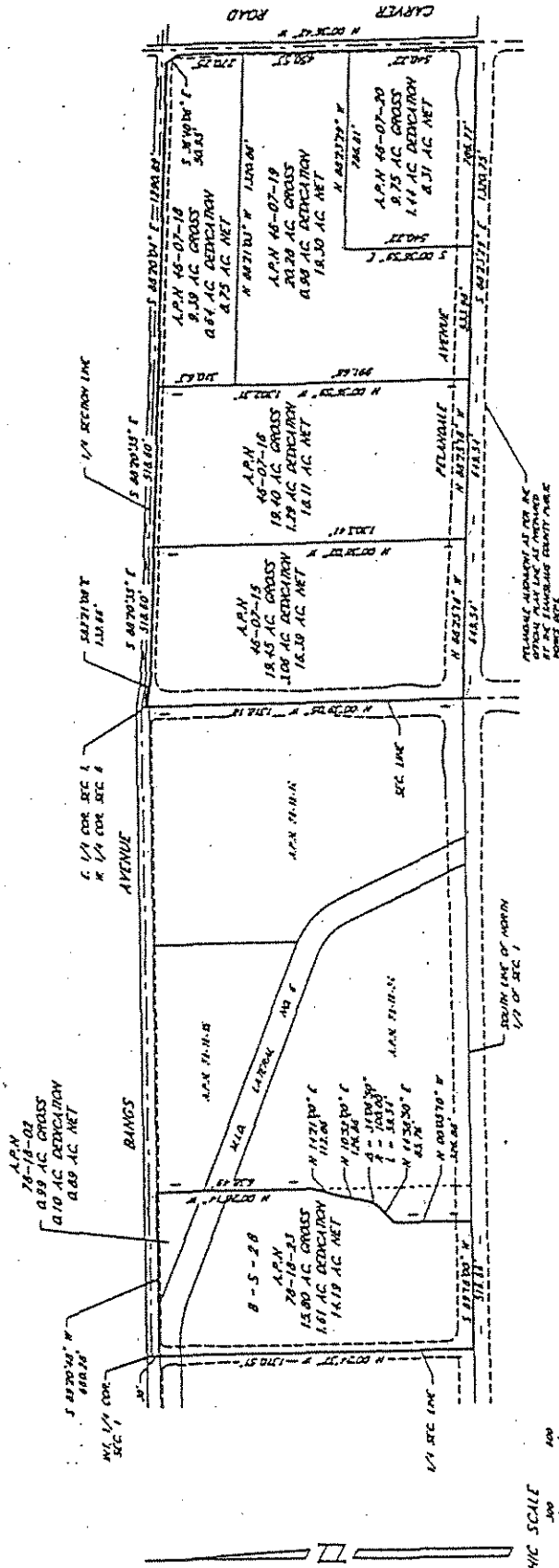


PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
 1000 S. STANISLAUS ST. • STANISLAUS, CA 95204 • TEL: (209) 257-7111 • FAX: (209) 257-7120

**PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA**



LAND PLANNING • ENGINEERING • SURVEYING
 1000 S. BIRCH, SUITE 1 • WASHINGTON, DC 20007 • PHONE (703) 437-7111 • FAX (703) 437-7027

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. <u>STORM DRAIN TRUNK LINES</u>					
A. <u>CONSTRUCTION</u>					
1.	36" STORM	400	LF	\$121.00	\$48,400
2.	42" STORM	1,874	LF	\$155.00	\$290,470
3.	48" STORM	3,661	LF	\$161.00	\$589,421
4.	54" STORM	5,242	LF	\$182.00	\$954,044
5.	PROPORTIONATE SHARE 54" TO BASIN	108	LF	\$182.00	\$19,656
6.	MANHOLES	29	EA	\$5,750.00	\$166,750
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$2,068,741
10% CONTINGENCY =====>					\$206,874
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$2,275,615
II. <u>STORM DRAINAGE BASIN FACILITIES</u>					
B. <u>CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	100,372	CY	\$6.00	\$602,232
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$389,555.00	\$389,555
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$21,057.00	\$21,057
4.	FENCING	2,890	LF	\$16.00	\$46,240
5.	LANDSCAPING	13,170	SF	\$2.80	\$36,876
6.	INLETS	LUMP SUM	LS	\$7,019.00	\$7,019
6.	CLEARING / DISCING / STRIPPING	LUMP SUM	LS	\$7,019.00	\$7,019
SUB-TOTAL					\$1,109,998
10% CONTINGENCY =====>					\$111,000

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. FEES					
1.	ENGINEERING	1	EST	\$70,192.00	\$70,192
2.	STAKING	1	EST	\$34,746.00	\$34,746
3.	CONSTRUCTION MANAGEMENT	1	EST	\$46,796.00	\$46,796
4.	GEOTECHNICAL	1	EST	\$12,635.00	\$12,635
TOTAL FEES ==>					\$164,369
D. LAND ACQUISITION					
1.	LAND PURCHASE	70.39% OF TOTAL COST OF \$1,030,239 =			\$725,185
2.	ADMINISTRATION	LUMP SUM LS			\$2,875.00
TOTAL LAND ACQUISITION ==>					\$728,060
PELANDALE - SNYDER STORM DRAIN FACILITIES TOTAL ==>					\$4,389,042

NOTES:

1. THE PELANDALE-SNYDER PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCES WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENT THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	509.26

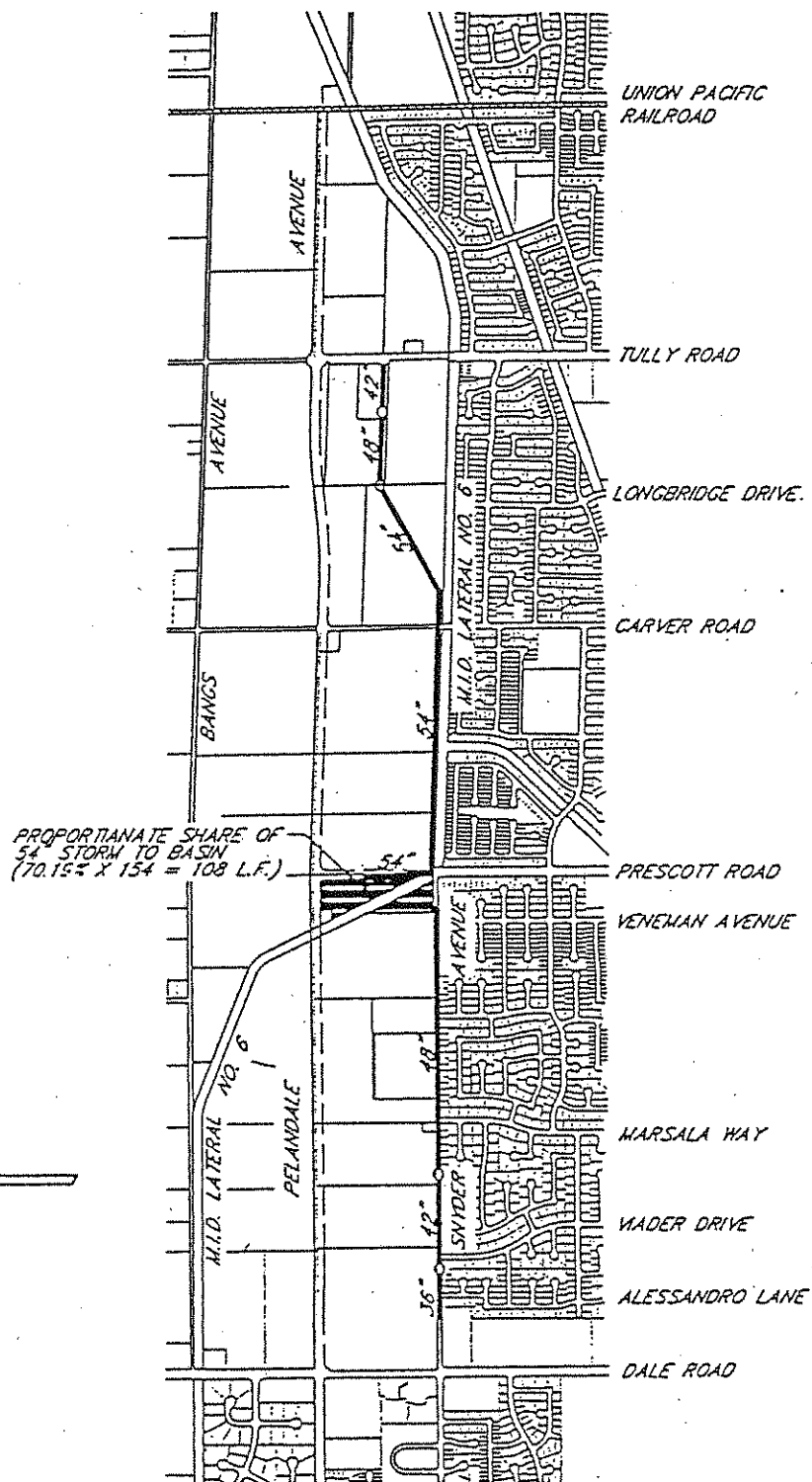
B. PELANDALE / SNYDER PROPORTIONATE SHARE

$357.46 / 509.26 = 70.19\%$

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER A CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID VALLEY ENGINEERING, INC.

3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE D DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AND GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

BACKBONE STORM DRAIN SYSTEM



Drawn	J.R.M.
Date	8-13-98
Scale	

FIGURE 1
PELANDALE SNYDER



FAX (209) 526-0803
SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
DALE ROAD (CENTER 20' C.L. TO C.L.)
AND EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS
SNYDER AVENUE TO PELANDALE AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 2)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. DALE ROAD CENTER 20 FEET</u>					
<u>A. CONSTRUCTION</u>					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	26,400	SF	\$1.50	\$39,600
2.	MEDIAN CURB	2,690	LF	\$15.00	\$40,350
3.	MEDIAN COVER	17,520	SF	\$3.50	\$61,320
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10; R.V. = 50)	5,280	SF	\$2.00	\$10,560
5.	STRIPING	LUMP SUM	LS	\$5,000.00	\$5,000
CONSTRUCTION TOTAL =====>					\$156,830
10% CONTINGENCY =====>					\$15,683
TOTAL DALE ROAD CONSTRUCTION =====>					\$172,513
<u>B. FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$10,350.78	\$10,351
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$5,175.39	\$5,175
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,900.52	\$6,901
TOTAL FEES =====>					\$22,427
DALE ROAD CENTER 20 FEET GRAND TOTAL =====>					\$194,940

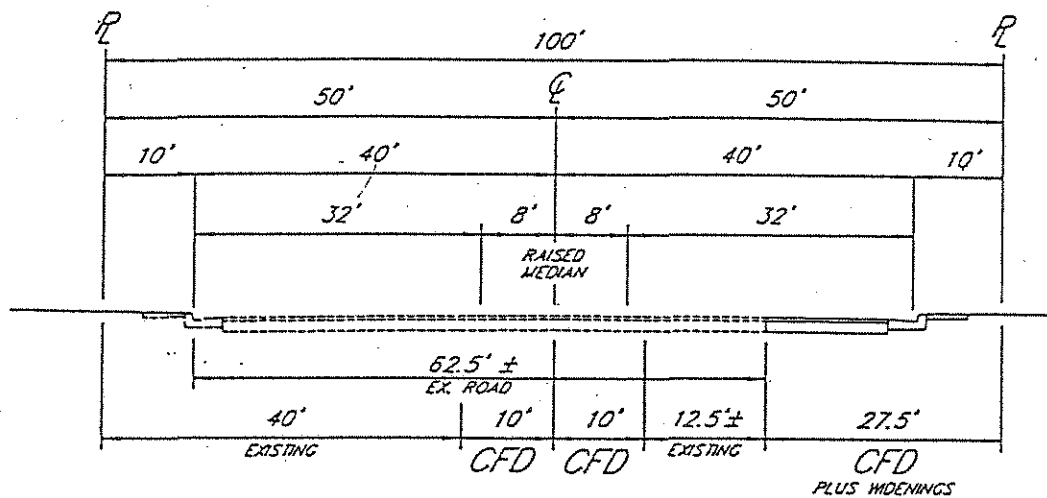
Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	30,492	SF	\$0.60	\$18,295
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	22,104	SF	\$2.00	\$44,208
3.	STORM DRAINAGE				
a.	12" STORM DRAIN	800	LF	\$30.00	\$24,000
b.	15" STORM DRAIN	420	LF	\$37.00	\$15,540
c.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
d.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
e.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	10' SIDEWALK WITH TREETWELL AND VINE BLOCKOUTS	12,300	SF	\$3.00	\$36,900
5.	6" VERTICAL CURB AND GUTTER	1,230	LF	\$9.00	\$11,070
6.	RETURN AT PELANDALE AVENUE	1	EA	\$1,000.00	\$1,000
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,760	SF	\$2.80	\$41,328
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$3,125.16	\$3,125
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$4,500.00	\$4,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,230	LF	\$10.00	\$12,300
12.	PRIMECOAT	22,104	SF	\$0.02	\$442
CONSTRUCTION TOTAL =====>					\$232,208
10% CONTINGENCY =====>					\$23,221
TOTAL DALE ROAD CONSTRUCTION =====>					\$255,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,325.76	\$15,326
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,662.88	\$7,663
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,217.17	\$10,217
TOTAL FEES =====>					\$33,206
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.70	AC	\$65,000.00	\$45,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$47,500
DALE ROAD FRONTAGE GRAND TOTAL =====>					\$336,135
DALE ROAD GRAND TOTAL =====>					\$531,075

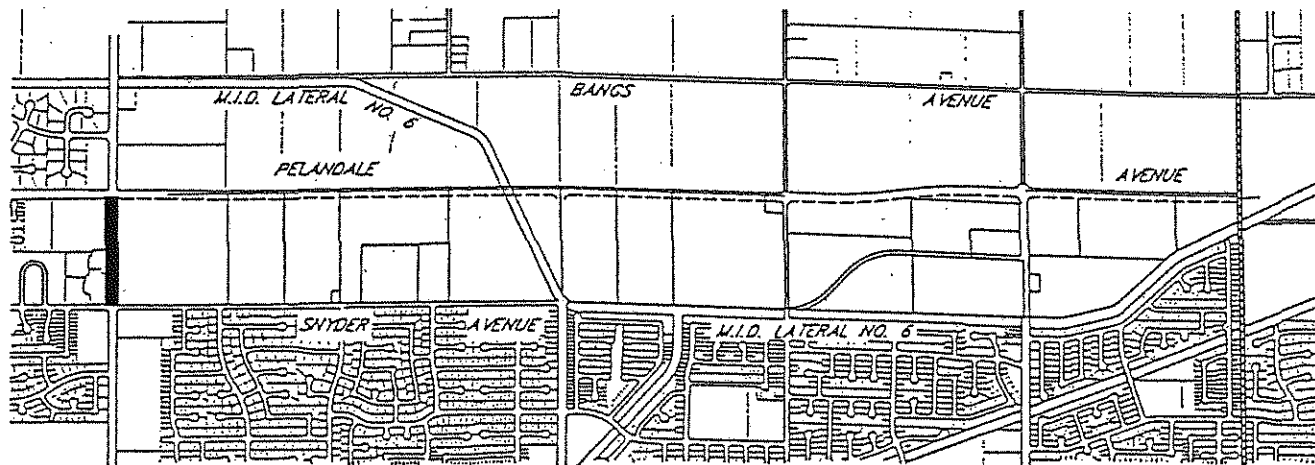
NOTE:

1. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC.

DALE ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.R.M.
Date 8-13-98
Scale
Job No. 70-332

FIGURE 2
PELANDALE SNYDER



FAX (209) 526-0803
SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD
WEST SIDE FRONTAGE IMPROVEMENTS ADJACENT
TO STORM DRAIN BASIN
AND EAST SIDE FRONTAGE IMPROVEMENTS
PELANDALE AVENUE TO SNYDER AVENUE (1,316' C.L. TO C.L.)
(REFERENCE FIGURE 3)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. <u>PRESCOTT ROAD WEST SIDE FRONTAGE IMPROVEMENTS (ADJACENT TO STORM DRAIN BASINS)</u>					
A. <u>CONSTRUCTION</u>					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	18,525	SF	\$2.00	\$37,050
3.	2" A.C. OVERLAY (EXISTING INTERIM PRESCOTT)	17,100	SF	\$0.60	\$10,260
4.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
5.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
6.	10' SIDEWALK	12,000	SF	\$3.00	\$36,000
7.	RETURNS	2	EA	\$1,000.00	\$2,000
8.	ELECTROLIERS	4	EA	\$3,500.00	\$14,000
9.	PRIMECOAT	18,525	SF	\$0.02	\$371
					\$139,999
					10% CONTINGENCY =====> \$14,000
					TOTAL PRESCOTT ROAD CONSTRUCTION =====> \$153,998
B. <u>FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,239.90	\$9,240
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,619.95	\$4,620
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,159.93	\$6,160
					TOTAL FEES =====> \$20,020
C. <u>LAND ACQUISITION</u>					
1.	RIGHT-OF-WAY DEDICATION	1.20	AC	\$65,000.00	\$78,000
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
					TOTAL LAND ACQUISITION =====> \$80,000
					PRESCOTT ROAD WEST SIDE FRONTAGE TOTAL =====> \$254,018

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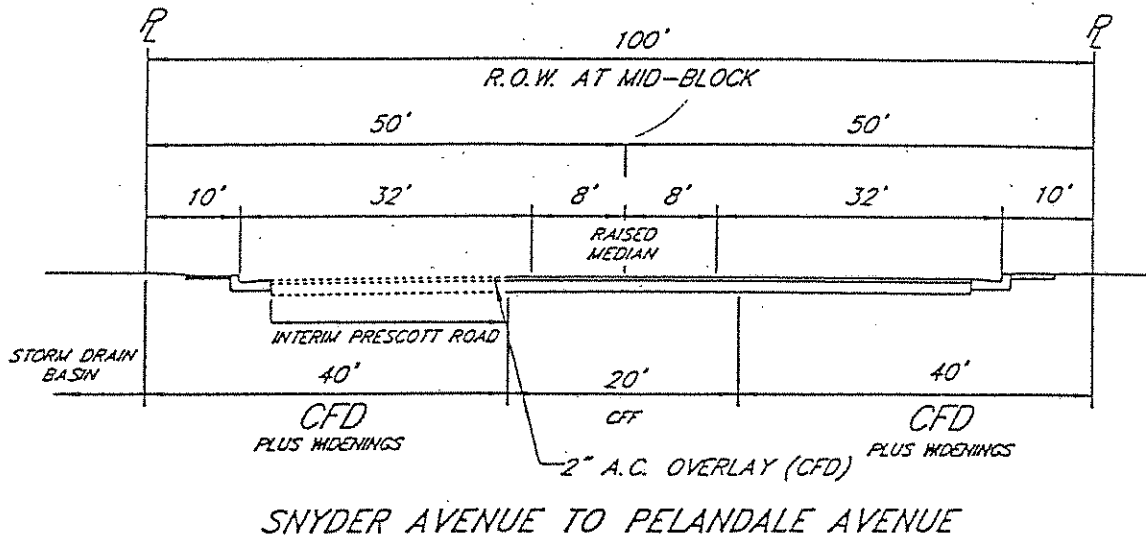
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. PRESCOTT ROAD EAST SIDE FRONTAGE IMPROVEMENTS					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	41,400	SF	\$2.00	\$82,800
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
4.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
5.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,000	SF	\$3.00	\$36,000
6.	RETURNS	4	EA	\$800.00	\$3,200
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,400	SF	\$2.80	\$40,320
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$5,265.90	\$5,266
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$2,500.00	\$2,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,200	LF	\$10.00	\$12,000
12.	PRIMECOAT	41,400	SF	\$0.02	\$828
CONSTRUCTION TOTAL =====>					\$233,732
10% CONTINGENCY =====>					\$23,373
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$257,105
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,426.31	\$15,426
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,713.15	\$7,713
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,284.20	\$10,284
TOTAL FEES =====>					\$33,424
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.25	AC	\$65,000.00	\$81,250
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$83,750
PRESCOTT ROAD EAST SIDE FRONTAGE TOTAL =====>					\$374,279
PRESCOTT ROAD GRAND TOTAL =====>					\$628,297

Pelandale-Snyder Specific Plan Area
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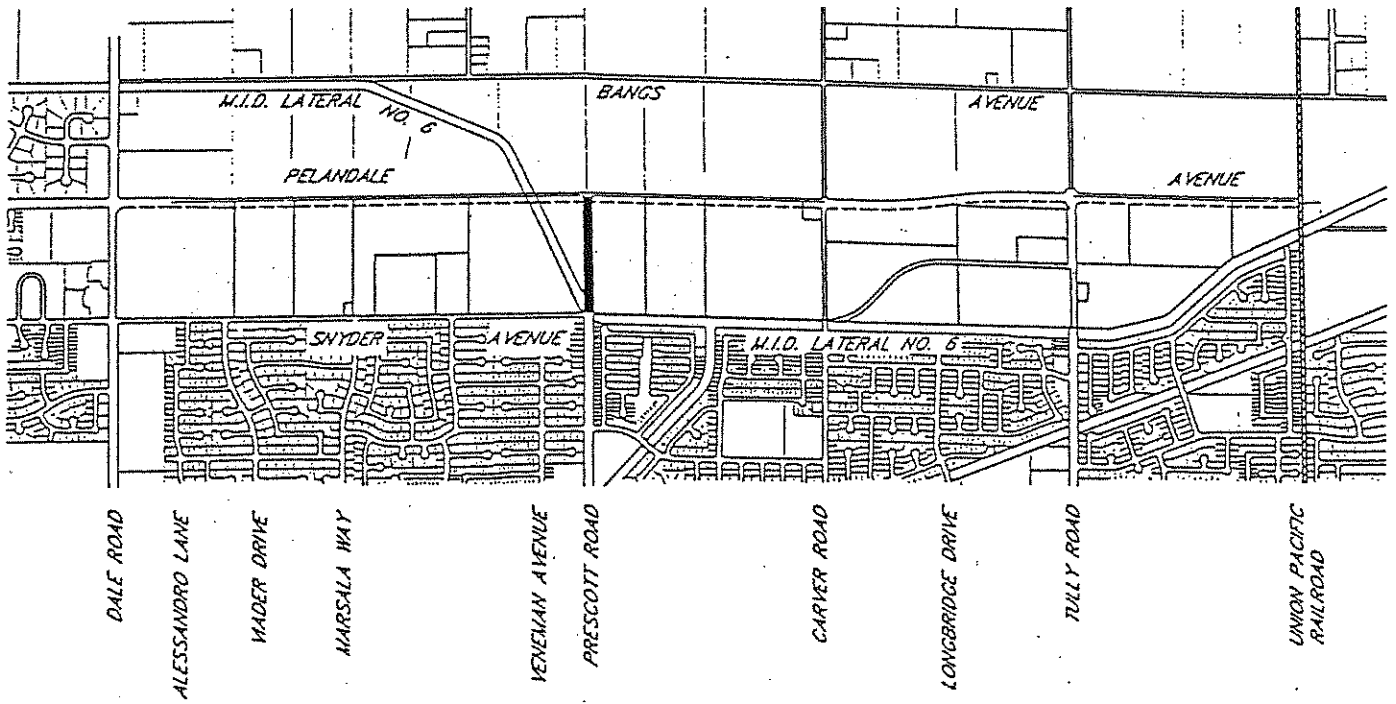
NOTES:

1. THE ABOVE ESTIMATE ASSUMES THE PHASE 1A INTERIM PELANDALE AVENUE WILL BE CONSTRUCTED ON THE WEST SIDE OF PRESCOTT AND A PORTION OF THE IMPROVEMENTS (APPROXIMATELY 650 L.F. FROM THE SNYDER INTERSECTION) WILL BE REMOVED FOR THE ULTIMATE IMPROVEMENTS. THE REMAINING INTERIM SECTION IS ASSUMED TO REMAIN AND BE OVERLAYED WITH 2" A.C.
2. THE ABOVE ESTIMATE DOES NOT INCLUDE THE CENTER 20' PORTION OF PRESCOTT ROAD SINCE IT IS INCLUDED IN THE CFF PROGRAM.
3. THE ABOVE ESTIMATE DOES NOT INCLUDE THE MAINLINE STORM DRAIN IMPROVEMENTS SINCE THOSE COSTS ARE INCLUDED WITH THE STORM DRAIN COMPONENT OF THE CFD.
4. THE ABOVE ESTIMATE INCLUDES ALL NECESSARY CATCH BASINS. THIS CATCH BASIN ESTIMATE WAS TAKEN DIRECTLY FROM THE APPROVED "ALMOND VALLEY SUBDIVISION" IMPROVEMENT PLANS.
5. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD



SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.R.M.
 Date 8-13-98
 Scale

FIGURE 3
PELANDALE SNYDER



FAX (209) 526-0803

SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES)
FROM EXISTING
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
TO PELANDALE AVENUE (1,450' C.L. TO C.L.)
TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF
AND
TULLY / SNYDER TRAFFIC SIGNAL
(REFERENCE FIGURE 4)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES, 114 FOOT RIGHT-OF-WAY)					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	87,245	SF	\$0.60	\$52,347
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	81,410	SF	\$2.00	\$162,820
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" STORM DRAIN	600	LF	\$30.00	\$18,000
c.	12" CATCH BASIN RUNS	200	LF	\$30.00	\$6,000
d.	MANHOLES	3	EA	\$2,000.00	\$6,000
4.	6" VERTICAL CURB AND GUTTER	2,432	LF	\$9.00	\$21,888
5.	10' SIDEWALK	24,320	SF	\$3.00	\$72,960
6.	REMOVE EXISTING CURB, GUTTER AND SIDEWALK ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD	717	LF	\$20.00	\$14,340
7.	CLEARING, GRADING AND DEMOLITION ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD (LANDSCAPING, IRRIGATION, ETC.)	LUMP SUM	LS	\$20,000.00	\$20,000
8.	ELECTROLIERS	9	EA	\$3,500.00	\$31,500
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$10,758.35	\$10,758
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$7,000.00	\$7,000
11.	TRAFFIC SIGNAL INTERCONNECT (ONE SIDE ONLY)	1,400	LF	\$10.00	\$14,000
12.	RELOCATE OVERHEAD POWER LINES	4	EA	\$7,000.00	\$28,000
13.	LANDSCAPING (12' WIDE STRIP BOTH SIDES)	36,996	SF	\$2.80	\$103,589
14.	PRIMECOAT	81,410	SF	\$0.02	\$1,628
CONSTRUCTION TOTAL =====>					\$574,830
15% CONTINGENCY =====>					\$86,225
TOTAL CONSTRUCTION FOR TULLY ROAD FRONTAGE =====>					\$661,055

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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$39,663.29	\$39,663
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$19,831.65	\$19,832
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$26,442.20	\$26,442
TOTAL FEES =====>					\$85,937
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.776	AC	\$65,000.00	\$50,440
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$52,440
TOTAL TULLY ROAD FRONTAGE =====>					\$799,432
II. TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF					
A. CONSTRUCTION					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	27,360	SF	\$1.50	\$41,040
2.	MEDIAN CURB	3,090	LF	\$15.00	\$46,350
3.	MEDIAN LANDSCAPING	23,120	SF	\$3.50	\$80,920
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B.; T.I. = 10, R.V. = 50)	27,360	SF	\$2.00	\$54,720
5.	STRIPING	LUMP SUM	LS	\$6,000.00	\$6,000
CONSTRUCTION TOTAL =====>					\$229,030
10% CONTINGENCY =====>					\$22,903
TOTAL CONSTRUCTION FOR TULLY ROAD CENTER 34' FEET =====>					\$251,933
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,115.98	\$15,116
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,557.99	\$7,558
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,077.32	\$10,077
TOTAL FEES =====>					\$32,751
TOTAL TULLY ROAD CENTER 34 FEET =====>					\$284,684
TOTAL AMOUNT FUNDED BY CFF =====>					\$220,000
TOTAL TULLY ROAD (CENTER 34 FEET) FUNDED BY PELANDALE-SNYDER CFD =====>					\$64,684
III. TRAFFIC SIGNAL AT TULLY ROAD AND SNYDER AVENUE					
A. CONSTRUCTION					
1.	TRAFFIC SIGNAL	LUMP SUM	LS	\$130,000.00	\$130,000

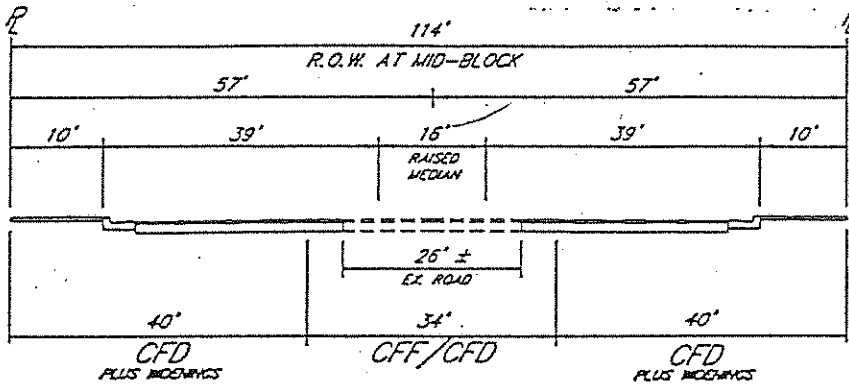
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$7,800.00	\$7,800
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$3,900.00	\$3,900
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,200.00	\$5,200
TOTAL FEES =====>					\$16,900
TOTAL TRAFFIC SIGNAL TULLY AND SNYDER =====>					\$146,900
TULLY ROAD GRAND TOTAL =====>					\$1,011,016

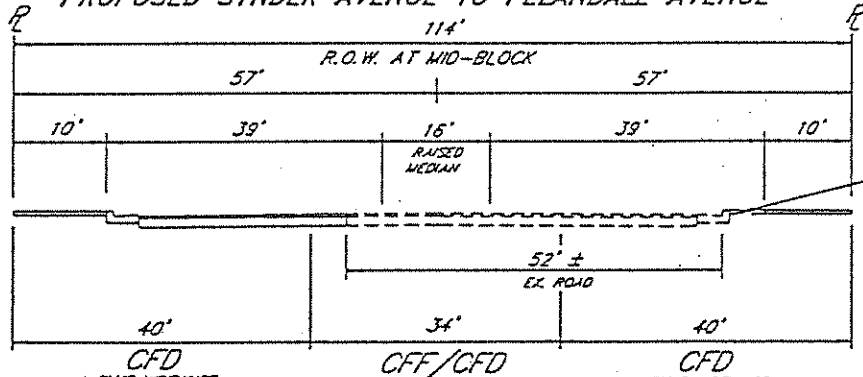
NOTES:

1. THIS ESTIMATE ITEM II IS FOR THE ENTIRE COST OF THE CENTER 34 FEET OF TULLY ROAD IMPROVEMENTS. THE CENTER 34 FEET OF IMPROVEMENTS ON TULLY ROAD ARE FUNDED BY THE CFF PROGRAM, HOWEVER, THE FUNDS ARE NOT AVAILABLE FOR THE ENTIRE PROJECT SO A PORTION OF THE PROJECT NOT FUNDED BY CFF WILL BE FUNDED BY THE PELANDALE-SNYDER CFD.
2. THIS ESTIMATE IS BASED ON THE ASSUMPTION THAT THE CENTER 26+/- FEET OF EXISTING PAVEMENT WILL REMAIN AND ADJACENT DEVELOPMENT WILL BE REQUIRED TO MATCH EXISTING PAVEMENT.
3. THE ABOVE COST ESTIMATE INCLUDES THE COST FOR IMPROVEMENTS FROM THE NORTH SIDE OF THE MODESTO IRRIGATION DISTRICT LATERAL TO PELANDALE AVENUE.
4. THE TULLY ROAD IMPROVEMENTS INCLUDE A COST TO REMOVE AND REPLACE THE EXISTING IMPROVEMENTS ALONG THE BIG VALLEY GRACE COMMUNITY CHURCH FRONTAGE (50' EXISTING TO 57' CITY STANDARD) TO BRING THE CROSS SECTION TO CITY STANDARD. HOWEVER, SPECIFIC DECELERATION OR ACCELERATION LANES WHICH ARE SITE SPECIFIC IMPROVEMENTS ARE NOT INCLUDED IN THE ESTIMATE.
5. THE RIGHT-OF-WAY COSTS ARE THE REQUIRED DEDICATIONS FOR RIGHT-OF-WAY BEYOND THE ALREADY EXISTING DEDICATIONS.
6. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

TULLY ROAD

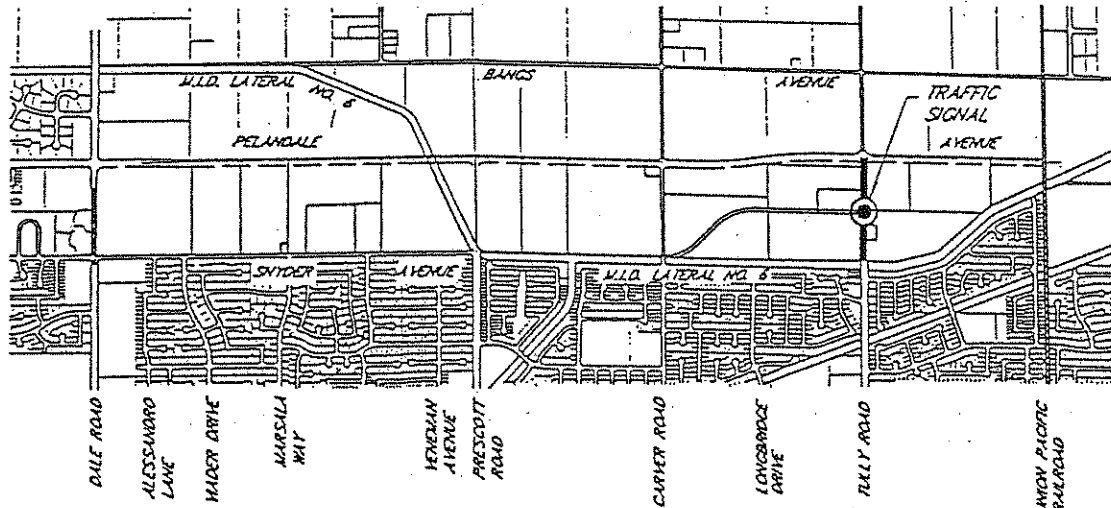


NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
PROPOSED SNYDER AVENUE TO PELANDALE AVENUE



EX. CURB, CUTTIEP & SIDEWALK TO BE REMOVED

NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
M.I.D. LATERAL NO. 6 TO PROPOSED SNYDER AVENUE



Drawn J.R.M.
Date 9-13-98
Scale
Job No. 70-332

FIGURE 4
PELANDALE SNYDER
CFD FORMATION



FAX (209) 526-0803
SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
SNYDER AVENUE
NORTH SIDE ADJACENT TO STORM DRAIN BASIN,
WEST OF PRESCOTT ROAD (352'), SOUTH SIDE
ADJACENT TO BIKE TRAIL FROM
PRESCOTT ROAD TO CARVER ROAD (2,639' C.L. TO C.L.)
(REFERENCE FIGURES-5, 5A, 5B, AND 5C)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	4,960	SF	\$0.35	\$1,736
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B., T.I. = 8 R.V. = 46)	4,085	SF	\$2.00	\$8,170
3.	6" VERTICAL CURB AND GUTTER	352	LF	\$9.00	\$3,168
4.	5' SIDEWALK	1,760	SF	\$3.00	\$5,280
5.	STORM DRAINAGE				
a.	12" STORM DRAIN	265	LF	\$30.00	\$7,950
b.	CATCH BASIN	1	EA	\$1,000.00	\$1,000
c.	STORM MANHOLE	1	EA	\$2,500.00	\$2,500
6.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$495.30	\$495
7.	TRAFFIC CONTROL	LUMP SUM	LS	\$1,000.00	\$1,000
8.	IRRIGATION REMOVAL	316	LF	\$10.00	\$3,160
CONSTRUCTION TOTAL =====>					\$34,459
10% CONTINGENCY =====>					\$3,446
TOTAL SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN CONSTRUCTION =====>					\$37,905
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,274.31	\$2,274
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,137.16	\$1,137
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,516.21	\$1,516
TOTAL FEES =====>					\$4,928
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.11	AC	\$65,000.00	\$7,410
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$9,910
SNYDER AVENUE ADJACENT TO THE STORM DRAIN BASIN TOTAL =====>					\$52,743

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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	51,575	SF	\$0.35	\$18,051
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B.; T.I. = 8, R.V. = 48)	47,020	SF	\$2.00	\$94,040
3.	PAVEMENT REMOVAL	59,730	SF	\$1.50	\$89,595
4.	6" VERTICAL CURB AND GUTTER	2,538	LF	\$9.00	\$22,842
5.	STORM DRAINAGE				
a.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	250	LF	\$30.00	\$7,500
b.	CATCH BASINS	5	EA	\$1,000.00	\$5,000
c.	STORM MANHOLE	5	EA	\$2,500.00	\$12,500
6.	ELECTROLIERS (660' INTERVALS)	4	EA	\$3,500.00	\$14,000
7.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$5,604.56	\$5,605
8.	TRAFFIC CONTROL	LUMP SUM	LS	\$5,000.00	\$5,000
9.	ABANDON EXISTING PUMP STATION NO. 47	LUMP SUM	LS	\$4,500.00	\$4,500
CONSTRUCTION TOTAL =====>					\$278,633
10% CONTINGENCY =====>					\$27,863
TOTAL SNYDER AVENUE ADJACENT TO BIKE TRAIL CONSTRUCTION =====>					\$306,496
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$18,389.77	\$18,390
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$9,194.88	\$9,195
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$12,259.84	\$12,260
TOTAL FEES =====>					\$39,844
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.58	AC	\$65,000.00	\$102,700
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$105,200
SNYDER AVENUE ADJACENT TO THE BIKE TRAIL TOTAL =====>					\$451,541
SNYDER AVENUE GRAND TOTAL =====>					\$504,283

NOTES:

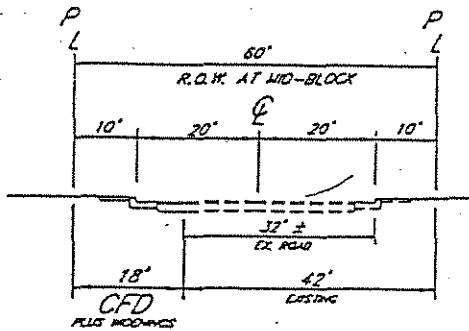
A. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN

1. THE SNYDER AVENUE IMPROVEMENTS ADJACENT TO THE STORM DRAINAGE BASIN, INCLUDE THE COST FOR IMPROVEMENT FROM THE WEST SIDE OF THE PROPOSED BASIN PROPERTY TO THE RETURN AT PRESCOTT ROAD.
2. THE RIGHT-OF-WAY COSTS IS THE AREA OF DEDICATION REQUIRED ASSUMING AN EXISTING 20 FOOT DEDICATION ON THE NORTH SIDE OF SNYDER AVENUE.

B. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL

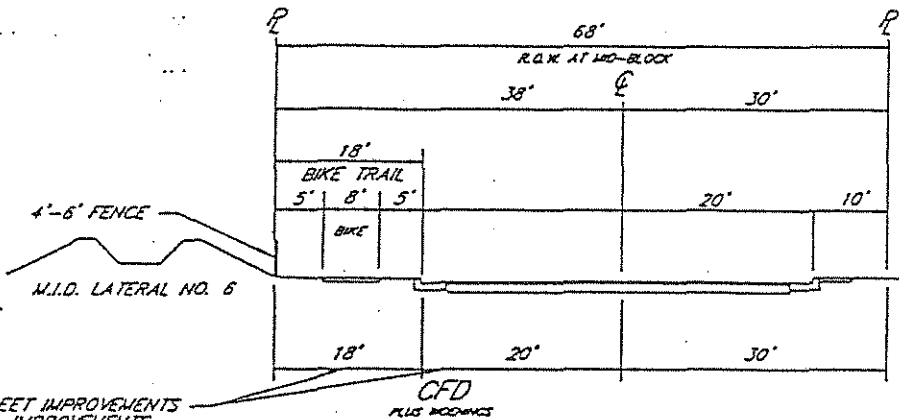
1. THE SNYDER AVENUE IMPROVEMENTS INCLUDE THE COSTS FOR ROADWAY IMPROVEMENTS (EXCLUDING BIKE TRAIL) SOUTH OF THE CENTERLINE (20') FROM PRESCOTT ROAD TO CARVER ROAD.
2. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
3. NO "MAINLINE" STORM DRAIN IMPROVEMENTS ARE INCLUDED SINCE THOSE COSTS ARE INCLUDED WITHIN THE STORM DRAIN COMPONENT OF THE C.F.D.
4. NO COSTS ARE INCLUDED IN THIS ESTIMATE FOR THE CLASS I BIKE TRAIL ADJACENT TO SNYDER AVENUE.
5. THE PAVEMENT REMOVAL QUANTITIES INCLUDES THE COST TO REMOVE THE ENTIRE EXISTING PAVEMENT SECTION FROM PRESCOTT ROAD TO CARVER ROAD.
6. THIS ESTIMATE INCLUDES A COST TO ABANDON EXISTING STORM DRAIN PUMP STATION NO. 47 ASSUMING CONNECTION TO THE POSITIVE STORM DRAIN SYSTEM.
7. NO COST FOR EXISTING POWER POLE RELOCATION IS INCLUDED IN COSTS.
8. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

SNYDER AVENUE



SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN (SEC. A)

NOTES: 1) MATCH EXISTING PAVEMENT PER CITY STANDARDS

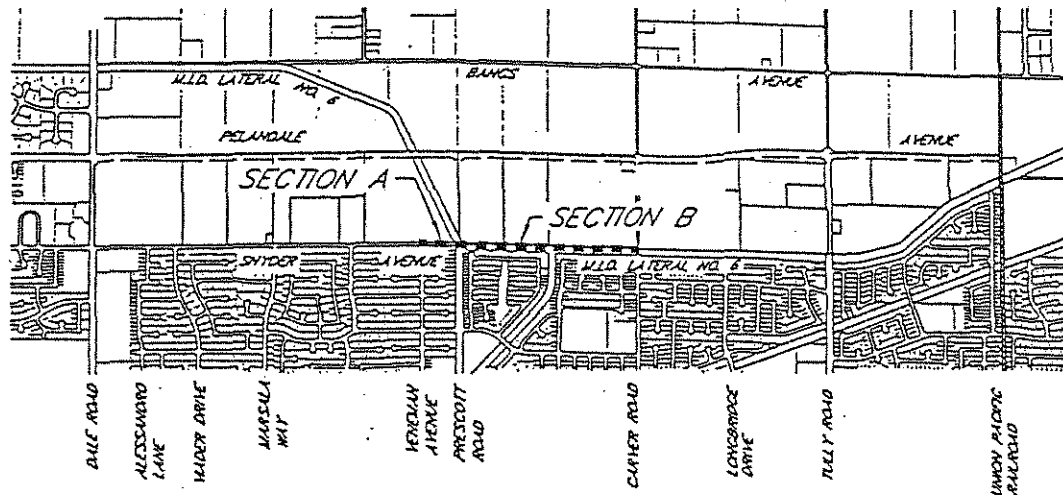


PROPOSED STREET IMPROVEMENTS AND BIKE TRAIL IMPROVEMENTS INCLUDED WITHIN CFD (REFER TO BIKE TRAIL SECTION FOR BIKE TRAIL COSTS AND IMPROVEMENTS)

CARVER ROAD TO PRESCOTT ROAD (SEC. B)

NOTES:

1. REFER TO FIGURE 5A FOR A DETAILED CROSS SECTION OF THE PROPOSED NEW SNYDER ALIGNMENT
2. REFER TO FIGURE 5B FOR RIGHT-OF-WAY TAKE SUMMARY
3. REFER TO FIGURE 5C FOR PRESCOTT SNYDER INTERSECTION DETAIL

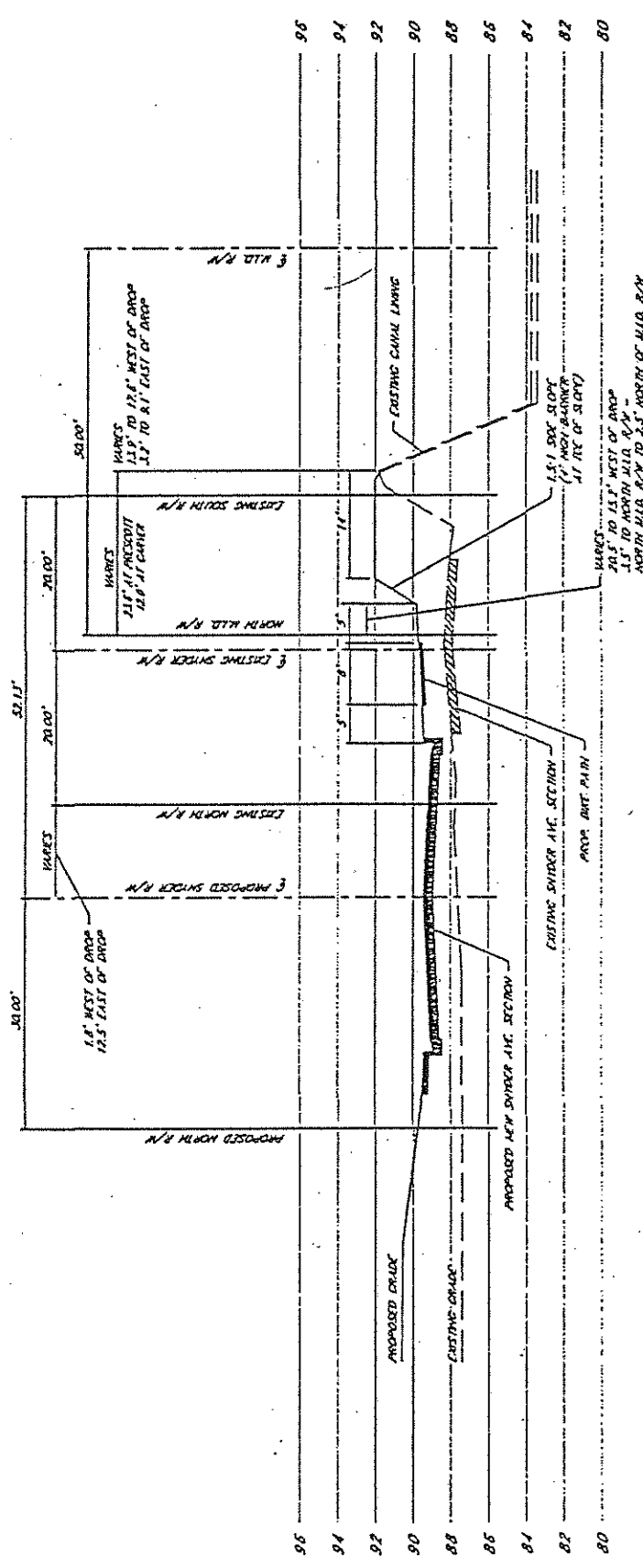


Drawn	J.R.M.
Date	8-13-98
Scale	
Job No.	70-332

FIGURE 5
PELANDALE SNYDER

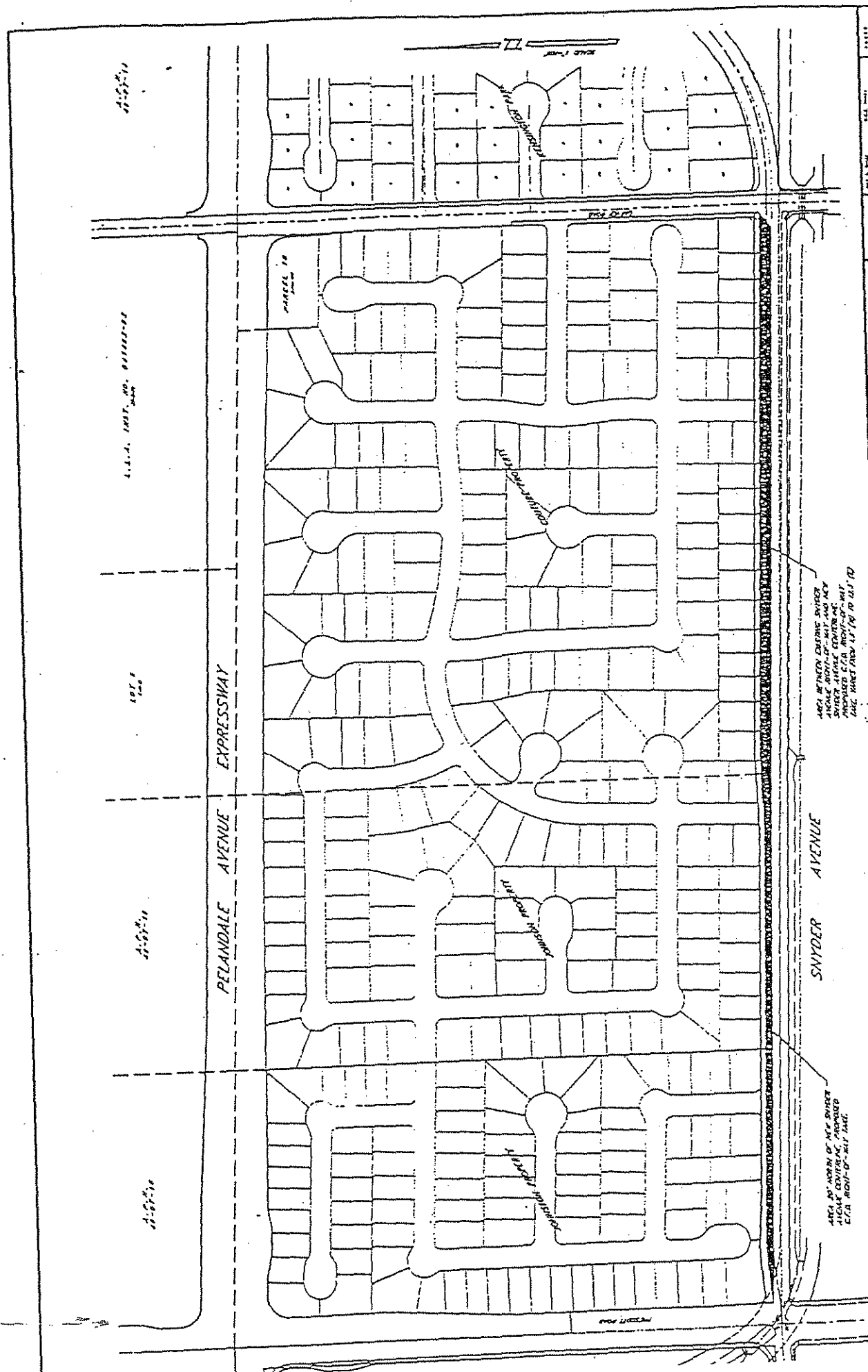


FAX (209) 526-0803
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TYPICAL SECTION ALONG THE M.I.D. RIGHT-OF-WAY
 BETWEEN
 PRESCOTT ROAD AND CARVER ROAD
PROPOSED SNYDER AVENUE

FIGURE 5A



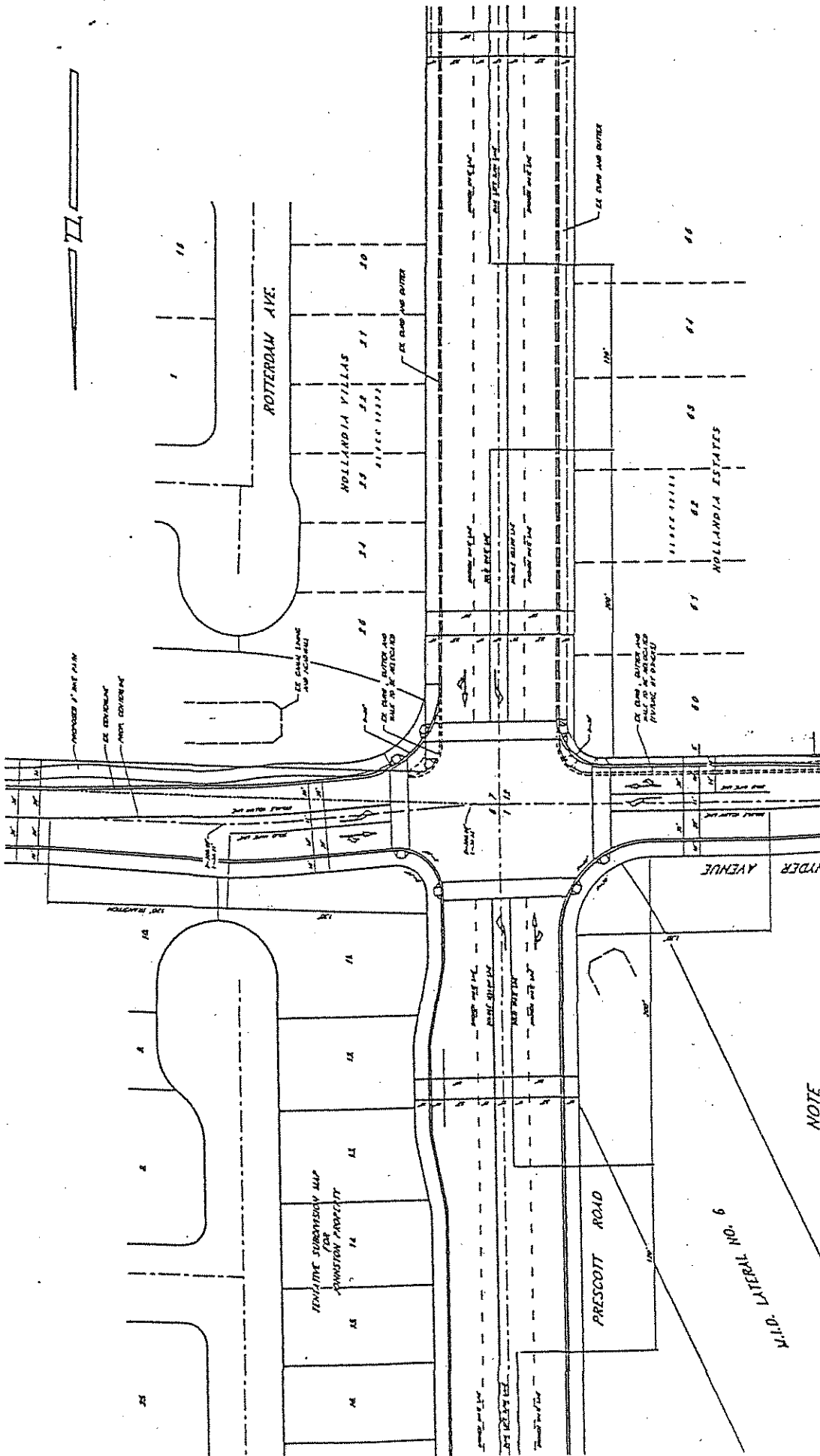
DATE	1. 1.
SCALE	1" = 100'
PROJECT	C.F.D. RIGHT-OF-WAY LAKE
OWNER	SNYDER AVENUE
PREPARED BY	MID-VALLEY ENGINEERING
CHECKED BY	
APPROVED BY	

C.F.D. RIGHT-OF-WAY LAKE
 SNYDER AVENUE
 CALIFORNIA

LAND PLANNING & DEVELOPMENT
 & SURVEYING
mid-valley engineering
 100 H STREET, SUITE 8
 LOS ANGELES, CALIFORNIA 90015
 (213) 624-1111
 TEL. 624-1111

SUMMARY:
 TOTAL AREA OF C.F.D. RIGHT-OF-WAY LAKE: 64500 S.F.
 - ADJACENT PROPERTY (A.P.N. 48-07-17) RIGHT-OF-WAY LAKE: 11816 S.F.
 - ADJACENT PROPERTY (A.P.N. 48-07-11) RIGHT-OF-WAY LAKE: 14643 S.F.
 - ADJACENT PROPERTY (A.P.N. 48-07-12) RIGHT-OF-WAY LAKE: 42000 S.F.

PRELIMINARY SNYDER / PRESCOTT INTERSECTION LAYOUT



NOTE
 INTERSECTION DESIGN AS PER THE CITY OF MOORETO STANDARDS, DETAIL NO. 503

Mid Valley Engineering

LAND PLANNING & SURVEYING

(909) 838-1111
 FAX 838-0003

800 N STREET, SUITE 8
 MOORETO, CALIFORNIA, 92541

PELANDALE SNYDER
 CFD FORMATION

APPROVED: _____
 CHAIRMAN

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BIKE TRAIL SYSTEM
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 18' BIKE TRAIL SYSTEM (8' PATH, 10' LANDSCAPING, AND 4-6' FENCE) ALONG SNYDER AVENUE FROM PRESCOTT ROAD TO CARVER ROAD.				
2.	INSTALL 25' BIKE TRAIL SYSTEM (8' PATH, 17' LANDSCAPING, AND 4-6' FENCE) ALONG MODESTO IRRIGATION DISTRICT LATERAL NO. 6 FROM CARVER ROAD TO THE UNION PACIFIC RAILROAD.				
3.	TOTAL LENGTH 8276 L.F. OR 1.567 MILES				
	EXISTING CFF PORTION	1.567	MILES	\$105,600.00	\$165,475
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH WITH 2' GRAVEL SHOULDER (8,276 L.F. x 8')	66,208	SF	\$2.00	\$132,416
2.	4'-6' FENCE	8,276	LF	\$16.00	\$132,416
3.	LANDSCAPING (6' AREA FROM PRESCOTT TO CARVER (2,770 L.F.); 13' AREA FROM CARVER TO UNION PACIFIC RAILROAD (5,506 L.F.))	88,198	SF	\$2.80	\$246,954
	CONSTRUCTION TOTAL =====>				\$511,786
	10% CONTINGENCY =====>				\$51,179
	TOTAL BIKE PATH =====>				\$562,965
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$33,777.90	\$33,778
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$16,888.95	\$16,889
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$22,518.60	\$22,519
	TOTAL FEES =====>				\$73,185

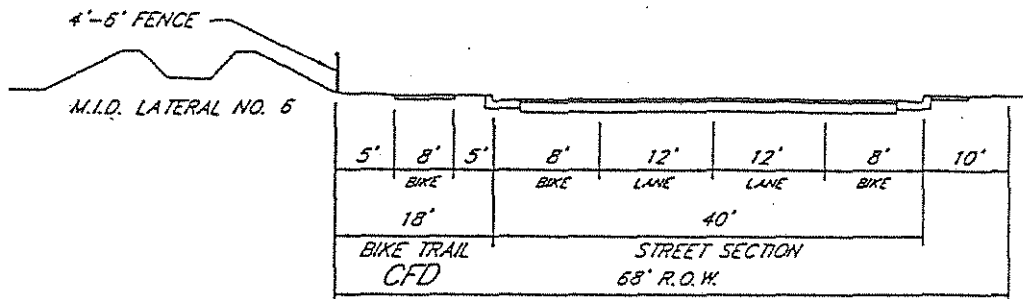
Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	4.30	AC	\$65,000.00	\$279,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$282,000
BIKE PATH GRAND TOTAL =====>					\$918,150
CFF PORTION TOTAL =====>					\$165,475
TOTAL PELANDALE-SNYDER CFD PORTION =====>					\$752,675

NOTES:

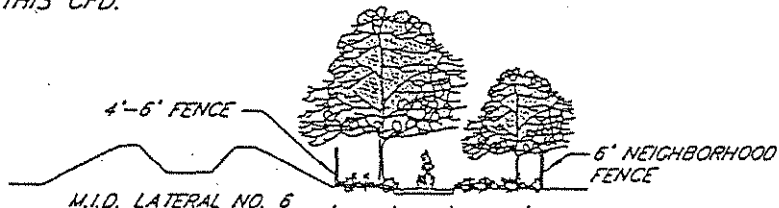
1. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
2. THIS ESTIMATE DOES NOT INCLUDE ANY COSTS ASSOCIATED WITH THE SNYDER AVENUE ROAD IMPROVEMENTS.

BIKE TRAIL



BIKE TRAIL ALONG SNYDER AVENUE

NOTE: SEE SNYDER AVENUE CROSS-SECTIONS FIGURE 5A FOR RIGHT-OF-WAY AND STREET IMPROVEMENTS INCLUDED WITHIN THIS CFD.

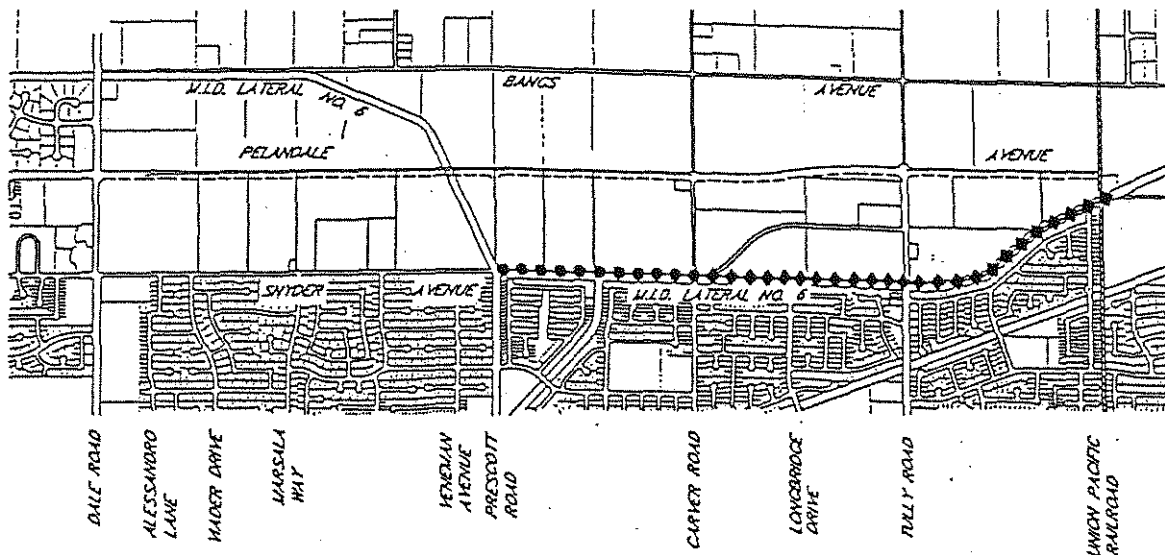


LEGEND

IMPROVEMENTS:

- = BIKE TRAIL ALONG SNYDER AVENUE
- ◆◆◆◆◆ = BIKE TRAIL ALONG M.I.D. LATERAL

BIKE TRAIL ALONG M.I.D. LATERAL



Drawn J.R.M.

Date 8-13-98

Scale

FIGURE 6
PELANDALE SNYDER



FAX (209) 526-0803

SHEET

1

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-107

A RESOLUTION APPOINTING WILLIAM A. JAQUES AND RICHARD VANDEN BOSCH 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 February 10, 2003, and recommended appointment of WILLIAM A. JAQUES and RICHARD VANDEN BOSCH 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 and RICHARD VANDEN BOSCH are hereby appointed to the Airport Advisory Committee with term expirations of January 1, 2007.

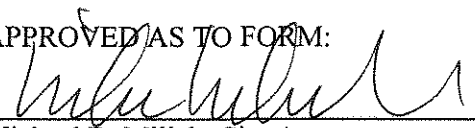
SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-108**

**A RESOLUTION APPOINTING TIM RAGSDALE 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 February 10, 2003, and recommended appointment of TIM RAGSDALE 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 is hereby appointed to the Board of Building Appeals 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 newly appointed member 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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

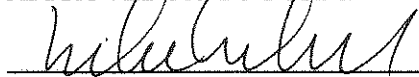
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-109

**A RESOLUTION APPOINTING JASON GORDO AND 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 February 10, 2003, and recommended appointment of JASON GORDO and 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. JASON GORDO and WILLIAM A. JAQUES are hereby appointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2007.

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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-110**

**A RESOLUTION APPOINTING ROBERT LOMBARDI, CHARLES QUINONES,
NANCY SMITH AND JEFF WELCH 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 February 10, 2003, and recommended appointment of ROBERT LOMBARDI, CHARLES QUINONES, NANCY SMITH and JEFF WELCH to the Community Qualities Forum,

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

SECTION 1. ROBERT LOMBARDI and CHARLES QUINONES with term expirations of January 1, 2005, NANCY SMITH and JEFF WELCH with term expirations of January 1, 2007, are hereby appointed to the Community Qualities Forum.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed 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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-111**

**A RESOLUTION APPOINTING ANDREW S. MENDLIN AND KEELY STACKHOUSE
TO THE DOWNTOWN IMPROVEMENT DISTRICT**

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 February 10, 2003, and recommended appointment of ANDREW S. MENDLIN and KEELY STACKHOUSE to the Downtown Improvement District.

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

SECTION 1. ANDREW S. MENDLIN with a term expiration of January 1, 2005, and KEELY STACKHOUSE with a term expiration of January 1, 2004, are hereby appointed to the Downtown Improvement District.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Downtown Improvement District, 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 February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zaher
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-112

**A RESOLUTION APPOINTING RICHARD HEYMAN AND GARY WILKINSON 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 February 10, 2003, and recommended appointment of RICHARD HEYMAN and GARY WILKINSON to the Golf Courses Advisory Committee.

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

SECTION 1. RICHARD HEYMAN and GARY WILKINSON are hereby appointed to the Golf Courses Advisory Committee with term expirations of January 1, 2007.

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 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-113**

**A RESOLUTION AUTHORIZING THE APPOINTMENT OF COUNCILMEMBER
JANICE KEATING TO THE HOUSING REHABILITATION LOAN COMMITTEE**

WHEREAS, the City Councilmembers serve on various boards and committees and act as representative on behalf of the City of Modesto, and

WHEREAS, the recent election left vacancies on several boards and committees, and

WHEREAS, the Housing Rehabilitation Loan Committee includes one member of the Modesto City Council to act in an advisory capacity to staff in carrying out the provisions of the agreements and also act in an advisory capacity to the legislative bodies of the parties of these agreements, and

WHEREAS, the term of offices for the councilmembers serving on these committees has expired,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that Councilmember JANICE KEATING is hereby appointed as the City Council representative to the Housing Rehabilitation Loan Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-114**

**A RESOLUTION ACCEPTING THE BID AND AWARDING ELITE
LANDSCAPING, INC., THE CONTRACT FOR THE PROJECT TITLED
“ORVILLE WRIGHT PARK PHASE II”**

WHEREAS, the bids received for Orville Wright Park were opened at 11:00 a.m. on January 28, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the low bidder's proposal, which was 10% under the engineer's estimate, was reviewed by the City of Modesto Attorney's office and was confirmed as the lowest responsible bidder, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$749,285 received from Elite Landscaping, Inc., be accepted as the lowest responsible bid, and the contract be award to Elite Landscaping, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Elite Landscaping, Inc., as the lowest responsible bid and hereby awards Elite Landscaping, Inc., the contract entitled “Orville Wright Park Phase II” in the amount of \$749,285.

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 March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-115**

**A RESOLUTION APPROVING A LEASE AGREEMENT BY AND BETWEEN
THE CITY OF MODESTO AND EVERETT & JONES BBQ, LLC FOR THE
PROPERTY LOCATED AT 1029 NINTH STREET, MODESTO, CALIFORNIA**

WHEREAS, the City of Modesto (“City”) is the owner of the property located at 1029 Ninth Street (Assessor’s Parcel No.: 104-0310) and including all of the buildings thereon (“Site”), and

WHEREAS, City desires to enter into a Lease Agreement with Everett & Jones BBQ, LLC (“Leasee”) to lease the stand-alone building on the Northeast corner of said Site, at the intersection of 9th Street and K Street, for use as a restaurant under the name “Everett and Jones BBQ”, and

WHEREAS, City and Leasee have agreed to certain terms and conditions as set forth in a Lease Agreement (“**Exhibit A**”) which is attached hereto and made a part hereof by this reference.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Lease Agreement between the City of Modesto and Everett & Jones BBQ, LLC, for the property located at 1029 Ninth Street, Modesto, California is hereby approved.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby authorizes and directs the City Manager to execute all documents related to and required by said Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH
City Attorney



STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET
AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only, February 21, 2003, is made by and between City of Modesto ("Lessor") and Annie P. Jones and Robert S. Dudley, dba Everett & Jones Barbeque, LLC, a Nevada Limited Liability Company ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Property (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 1029 9th Street, located in the City of Modesto, County of Stanislaus, State of California, with zip code 95354, as outlined on Exhibit _____ attached hereto ("**Premises**") and generally described as (describe briefly the nature of the Premises): approximately 3,600 square feet. Lessee shall not have any rights to the roof, exterior walls or utility raceways of the building containing the Premises ("**Building**"). The Premises, the Building, the land upon which they are located, along with all other improvements thereon, are herein collectively referred to as the "**Property**." (See also Paragraph 2)

1.2(b) **Parking:** thirty-five (35) unreserved vehicle parking spaces ("**Unreserved Parking Spaces**"); (See also Paragraph 2.6)

1.3 **Term:** Ten (10) years, plus any partial month, ("**Original Term**") commencing on the earlier to occur of the following: (i) sixty (60) days after the Early Possession Date, or (ii) the date Tenant first opens for business in the Premises. ("**Commencement Date**") and ending on the last day of the one hundred and twentieth (120) full calendar month thereafter. ("**Expiration Date**"). (See also Paragraph 3)

1.4 **Early Possession:** March 13, 2003 ("**Early Possession Date**").

(See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$ 3,600.00 per month ("**Base Rent**"), payable on the first day of each month as follows: (See also Paragraph 4)

Months 1 – 12:	\$3,600.00 per month
Months 13 – 24:	\$3,708.00 per month
Months 25 – 36:	\$3,819.00 per month
Months 37 – 48:	\$3,934.00 per month
Months 49 – 60:	\$4,052.00 per month
Months 61 – 72:	\$4,173.00 per month
Months 73 – 84:	\$4,299.00 per month
Months 85 – 96:	\$4,428.00 per month
Months 97 – 108:	\$4,560.00 per month
Months 109 – 120:	\$4,697.00 per month

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. (See paragraph 1.5 above).

1.6 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** \$ 3,600.00 for the period of first (1st) month.

(b) **Security Deposit:** \$ 3,600.00 ("**Security Deposit**"). (See also Paragraph 5)

(c) **Association Fees:** \$ _____ for the period _____.

(d) **Other:** \$ _____ for _____.

(e) **Total Due Upon Execution of this Lease:** \$ 7,200.00.

1.7 **Agreed Use:** A full service and take out Barbeque style restaurant. (See also Paragraph 6)

1.8 **Insuring Party:** Lessor is the "**Insuring Party**". (See also Paragraph 8)

1.9 **Real Estate Brokers:** (See also Paragraph 15)

(a) **Representation:** The following real estate brokers (the "**Brokers**") and brokerage relationships exist in this transaction

check applicable boxes:

Brekke Real Estate, Inc. represents Lessor exclusively ("**Lessor's Broker**");

Lee & Associates-Central Valley, Inc. represents Lessee exclusively ("**Lessee's Broker**"); or

_____ represents both Lessor and Lessee ("**Dual Agency**").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent for the brokerage services rendered by the Brokers).

1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by N/A ("**Guarantor**"). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

an Addendum consisting of Paragraphs _____ through _____.

a plot plan depicting the Premises;

a current set of the Rules and Regulations;

a Work Letter;

other (specify): _____

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.

2.2 **Condition.** Lessor shall deliver that portion of the Premises to Lessee broom clean and free of debris and in "as-is" condition on the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), shall be in good operating condition on said date. If a non-compliance with such warranty exists as of the Start Date, or if of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the C systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense.

2.3 **Compliance.** Lessor makes no representation and/or warrants to Lessee that the improvements on or about the Premises comply with current or former building codes or applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("**Applicable Requirements**"). **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are**

appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises or other physical modification of the Premises ("Capital Expenditure"), Lessee shall be solely responsible for the cost of such work.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** Not Applicable.

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of Unreserved Parking Spaces specified in Paragraph 1.2(b) on those portions of the adjoining Modesto City surface parking lot as designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor.

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Operating Expense Increase, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** Not Applicable.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is

not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be shed in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' fees and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which existed as a result of Hazardous Substances on the Premises prior to the Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Lessee shall at all times during the term of this Lease maintain a valid business license with the City of Modesto.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request therefor. Lessor has the right to enter onto the Premises at reasonable times to perform an inspection of the Premises to ensure that the Lessee is performing in compliance with the terms and conditions of the Lease

7. Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, skylights, landscaping driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) fire extinguishing systems, including fire alarm and/or smoke detection, (iii) landscaping and irrigation systems, (iv) roof covering and drains, and (v) basic utility feed to the perimeter of the Building, and (vi) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and if Lessor so elects, Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired or replaced at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be shared between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which the Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance at a rate that is commercially reasonable in the judgment of Lessor's accountants. Lessee may, however, prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Property) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment For Insurance. Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within 10 days following receipt of an invoice.

8.2 Liability Insurance.

(a) **Carried by Lessee.** The Lessee 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 Lessor as may be required by the Risk Manager of the Lessor (Risk Manager for the City of Modesto). 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 Lessor by certified mail, return receipt requested, for all of the following stated insurance policies.

(i) **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.

(ii) **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 Lessees and subcontractors; products and completed operations; and professional liability.

(iii) **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.

If at any time any of said policies shall be unsatisfactory to the Lessor, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the Lessor, the Lessee 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 Lessee to furnish, deliver or maintain such insurance and certificates as above provided, this Lease, at the election of the Lessor, may be forthwith declared suspended, or terminated. Failure of the Lessee to obtain and/or maintain any required insurance shall not relieve the Lessee from any liability under this Lease, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Lessee concerning indemnification. The Lessor, 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 Lessor, its agents, officers, employees, and volunteers for losses arising from work performed by Lessee for the Lessor. The Lessee's insurance policy(ies) shall include a provision that the coverage is primary as respects the Lessor; 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 Lessee must deliver certificates evidencing existence of the insurance called for in the contract specifications to the City of Modesto Clerk at the time the contract is signed.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. If Lessor is the Insuring Party, however, Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4 rather than by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed

valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an insured Loss.

(b) **Rental Value.** The insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value range"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of the such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property; Business Interruption Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Lessee, its agents, officers and employees shall defend, indemnify, and hold harmless Lessor, 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 Lessee whether or not the act or omission arises from the sole negligence or other liability of Lessor, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this Lease.

Lessee's obligation to defend, indemnify, and hold the Lessor, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Lease for Lessee to procure and maintain a policy of insurance.

8.8 **Exemption of Lessor from Liability.** Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising on the Premises or upon other portions of the Building, or from other sources or places. Lessor shall not be liable for any damages arising from any act or act of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Property. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises which requires repair, remediation, or restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such repair and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably

possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or Property, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Property is located. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein; (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax installment due at lease 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

10.3 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.4 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to atorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable measures to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the security contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting the amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Lessor shall not waive Lessor's right to recover damages under Paragraph 12. If the termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the

unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent an amount equal to the greater of one month's Base Rent or the Security Deposit, and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of Lessee's Reserved Parking Spaces, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.9 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Property, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrances may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

Limitation on Liability. Subject to the provisions of Paragraph 17 above, the obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, the individual partners of Lessor or its or their individual partners, directors, officers or shareholders, and Lessee shall look to the mises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against the individual partners of Lessor, or its or their individual partners, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

23.1 **Notice Requirements.** 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.

Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: **To the Lessor:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. **To the Lessee and the Lessor:** (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Lease shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of such new owner, this Lease shall automatically become a new Lease between Lessee and such new owner, upon all of the terms and conditions hereof, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations hereunder, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "For Sale" signs and Lessor may during the last 6 months of the term hereof place on the Premises any ordinary "For Lease" signs. Lessee may at any time place on the Premises any ordinary "For Sublease" sign.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one of all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the American Industrial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** Not applicable

40. **Multiple Buildings.** Not Applicable.

41. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. **Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps, and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such easement rights, dedication, map or restrictions.

43. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay.

44. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document in writing thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. **Independent Contractor.** All acts of Lessee, its agents, officers, and employees and all others acting on behalf of Lessee relating to the performance of this Lease, shall be performed as independent contractors and not as agents, officers, or employees of Lessor. Lessee, by virtue of this Lease, has no authority to bind or incur any obligation on behalf of Lessor. Lessee has no authority or responsibility to exercise any rights or power vested in the Lessor. No agent, officer, or employee of the Lessor is to be considered an employee of Lessee. It is understood by both Lessee and Lessor that this Lease shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Lessee, its agents, officers and employees are and, at all times during the terms of this Lease, shall represent and conduct themselves as independent contractors and not as employees of Lessor.

Lessee shall determine the method, details and means of performing the work and services to be provided by Lessee under this Lease. Lessee shall be responsible to Lessor only for the requirements and results specified in this Lease, and, except as expressly provided in this Lease, shall not be subjected to Lessor's control with respect to the physical action or activities of the Lessee in fulfillment of this Lease. Lessee has control over the manner and means of performing the services under this Lease. Lessee is permitted to provide services to others during the same period service is provided to Lessor under this Lease. If necessary, Lessee has the responsibility for employing other persons or firms to assist Lessee in fulfilling the terms and obligations under this Lease.

If in the performance of this Lease any third persons are employed by Lessee, such persons shall be entirely and exclusively under the direction, supervision, and control of Lessee. 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 Lessee. It is understood and agreed that as an independent contractor and not an employee of Lessor neither the Lessee or Lessee's assigned personnel shall have any entitlement as an employee of Lessor, right to act on behalf of the Lessor in any capacity whatsoever as an agent, or to bind the Lessor to any obligation whatsoever. It is further understood and agreed that Lessee must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Lessee's personnel.

As an independent contractor, lessee hereby indemnifies and holds Lessor harmless from any and all claims that may be made against Lessor based upon any contention by any third party that an employer-employee relationship exists by reason of this Lease.

49. **Mediation and Arbitration of Disputes.** An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

50. **Americans with Disabilities Act.** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modification or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

Governing Law. This Lease shall be governed according to the laws of the State of California.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
- RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____
on: _____

Executed at: _____
on: _____

By LESSOR:
City of Modesto
A municipal corporation of the State of California

By LESSEE:
Annie Jones and Robert Dudley
dba Everett & Jones Barbeque, a
Nevada Limited Liability Company

By: _____
Name Printed: Jack R. Crist
Title: City Manager
Approved as to form:

By: _____
Name Printed: Annie P. Jones
Title: _____

Name Printed: Michael D. Milich
Title: City Attorney
Address: 1010 Tenth Street, Ste. 6600
Modesto, CA, 95354

By: _____
Name Printed: Robert S. Dudley
Title: _____
Address: 3263 Millsview Avenue
Oakland, CA, 94569

Initials

Telephone: (209) 571-5566
Facsimile: (209) 491-5798
Federal ID No. _____

BROKER:

Brekke Real Estate, Inc.

Attn: Randy Brekke

Title: _____

Address: 1127 Lone Palm Avenue
Modesto, CA, 95351

Telephone/Facsimile: 209-571-7230/209-529-0538

Federal ID No. _____

Telephone: (510) 534-4560
Facsimile: (510) 534-4560
Federal ID No. _____

BROKER:

Lee & Associates, Inc.

Attn: Christopher Sill

Title: _____

Address: 241 Frank West Circle, Suite 300
Stockton, CA, 95206

Telephone/Facsimile: 209-983-1111/209-982-0167

Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: American Industrial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017. (213) 687-8777.

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ARBITRATION AGREEMENT
Standard Lease Addendum

Dated February 21, 2003

By and Between (Lessor) City of Modesto

(Lessee) Annie P. Jones & Robert S. Dudley
dba Everett & Jones Barbeque, a Nevada
Limited Liability Company

Address of Premises 1029 9th Street, Modesto, CA, 95354

Paragraph 49.1

A. ARBITRATION OF DISPUTES:

Except as provided in Paragraph B below, the Parties agree to resolve any and all claims, disputes or disagreements arising under this Lease, including, but not limited to any matter relating to Lessor's failure to approve an assignment, sublease or other transfer of Lessee's Interest in the Lease under Paragraph 12 of this Lease, any other defaults by Lessor, or any defaults by Lessee by and through arbitration as provided below and irrevocably waive any and all rights to the contrary. The Parties agree to at all times conduct themselves in strict, full, complete and timely accordance with the terms hereof and that any attempt to circumvent the terms of this Arbitration Agreement shall be absolutely null and void and of no force or effect whatsoever.

B. DISPUTES EXCLUDED FROM ARBITRATION:

The following claims, disputes or disagreements under this Lease are expressly excluded from the arbitration procedures set forth herein: 1. Disputes for which a different resolution determination is specifically set forth in this Lease, 2. All claims by either party which (a) seek anything other than enforcement or determination of rights under this Lease, or (b) are primarily founded upon matters of fraud, willful misconduct, bad faith or any other allegations of tortious action, and seek the award of punitive or exemplary damages, 3. Claims relating to (a) Lessor's exercise of any unlawful detainer rights pursuant to applicable law or (b) rights or remedies used by Lessor to gain possession of the Premises or terminate Lessee's right of possession to the Premises, all of which disputes shall be resolved by suit filed in the applicable court of jurisdiction, the decision of which court shall be subject to appeal pursuant to applicable law and 4. All claims arising under Paragraph 39 of this Lease, which disputes shall be resolved by the specific dispute resolution procedure provided in Paragraph 39 to the extent that such disputes concern solely the determination of rent.

C. APPOINTMENT OF AN ARBITRATOR:

All disputes subject to this Arbitration Agreement, shall be determined by binding arbitration before: [X] a retired judge of the applicable court of jurisdiction (the Superior Court of the State of California) affiliated with Judicial Arbitration & Mediation Services, Inc. ("JAMS"), [] the American Arbitration Association ("AAA") under its commercial arbitration rules, []

or as may be otherwise mutually agreed by Lessor and Lessee (the Arbitrator). Such arbitration shall be initiated by the Parties, or either of them, within ten (10) days after either party sends written notice (the "Arbitration Notice") of a demand to arbitrate by registered or certified mail to the other party and to the Arbitrator. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. If the Parties have agreed to use JAMS they may agree on a retired judge from the JAMS panel. If they are unable to agree within ten days, JAMS will provide a list of three available judges and each party may strike one. The remaining judge (or if there are two, the one selected by JAMS) will serve as the Arbitrator. If the Parties have elected to utilize AAA or some other organization, the Arbitrator shall be selected in accordance with said organization's rules. In the event the Arbitrator is not selected as provided for above for any reason, the party initiating arbitration shall apply to the appropriate Court for the appointment of a qualified retired judge to act as the Arbitrator.

D. ARBITRATION PROCEDURE:

1. PRE-HEARING ACTIONS. The Arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations, and narrow the issues. The Parties will submit proposed discovery schedules to the Arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the Arbitrator. The Arbitrator shall have the discretion to order a pre-hearing exchange of information by the Parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties and third-party witnesses. This discretion shall be exercised in favor of discovery reasonable under the circumstances. The Arbitrator shall issue subpoenas and subpoenas duces tecum as provided for in the applicable statutory or case law (e.g., in California Code of Civil Procedure Section 1282.8).

2. THE DECISION. The arbitration shall be conducted in the city or county within which the Premises are located at a reasonably convenient site. Any Party may be represented by counsel or other authorized representative. In rendering a decision(s), the Arbitrator shall determine the rights and obligations of the Parties according to the substantive laws and the terms and provisions of this Lease. The Arbitrator's decision shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences therefrom. The Arbitrator may make any determination and/or grant any remedy or relief that is just and equitable. The decision must be based on, and accompanied by, a written statement of decision explaining the factual and legal basis for the decision as to each of the principal controverted issues. The decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the court of applicable jurisdiction, subject only to challenge on the grounds set forth in the applicable statutory or case law (e.g., in California Code of Civil Procedure Section 1288.2). The validity and enforceability of the Arbitrator's decision is to be determined exclusively by the court of appropriate jurisdiction pursuant to the provisions of this Lease. The Arbitrator may award costs, including without limitation, Arbitrator's fees and costs, attorneys' fees, and expert and witness costs, to the prevailing party, if any, as determined by the Arbitrator in his discretion.

Whenever a matter which has been submitted to arbitration involves a dispute as to whether or not a particular act or omission (other than a failure to pay money) constitutes a Default, the time to commence or cease such action shall be tolled from the date that the Notice of Arbitration is served through and until the date the Arbitrator renders his or her decision. Provided, however, that this provision shall NOT apply in the event that the Arbitrator determines that the Arbitration Notice was prepared in bad faith.

Whenever a dispute arises between the Parties concerning whether or not the failure to make a payment of money constitutes a default, the service of an Arbitration Notice shall NOT toll the time period in which to pay the money. The Party allegedly obligated to pay the money may, however, elect to pay the money "under protest" by accompanying said payment with a written statement setting forth the reasons for such protest. If thereafter, the Arbitrator determines that the Party who received said money was not entitled to such payment, said money shall be promptly returned to the Party who paid such money under protest together with interest thereon as defined in Paragraph 13.5. If a Party makes a payment "under protest" but no Notice of Arbitration is filed within thirty days, then such protest shall be deemed waived. (See also Paragraph 43)

NOTE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call us to make sure you are using the most current form: American Industrial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017, Telephone No.: (213) 687-8777. Fax No.: (213) 687-8616.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-116**

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE MONTEREY BAY UNIT NO. 3 SUBDIVISION, IN THE CARVER-BANGS SPECIFIC PLAN AREA, AND AUTHORIZING RELEASE OF BONDS

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, is the subdivider of the Monterey Bay Unit No. 3 Subdivision, and

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$348,000.00 and \$174,000.00, respectively, and

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, has filed a warranty bond in the amount of \$34,800.00 to guarantee improvements in the Monterey Bay Unit No. 3 Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the Monterey Bay Unit No. 3 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$348,000.00 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 \$174,000.00 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 improvements in the amount of \$34,800.00 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 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Alison Barratt-Green
ALISON BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-117**

A RESOLUTION AWARDED A CONTRACT TO PURKISS ROSE/RSI FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES TO PREPARE A MASTER PLAN AND DESIGN DEVELOPMENT REPORT FOR GROGAN COMMUNITY PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the city of Modesto owns the approximately 46 acre Grogan Community Park site located north of Sylvan Avenue and adjacent to the future Modesto City High School site on the west and Litt Road on the east, and

WHEREAS, this is the only community park site in the Village One Specific Plan, and

WHEREAS, the intent of this park is to provide the usual community park amenities along with numerous organized sports facilities, and

WHEREAS, the City now desires to have a Master Plan and Design Development Report prepared for this park, and

WHEREAS, through an RFP process, Purkiss Rose/RSI was determined to be the most qualified firm to prepare the Master Plan and Design Development Report, and

WHEREAS, Purkiss Rose/RSI has agreed to provide the services outlined in Exhibit "A" attached hereto and incorporated herein by reference at a cost not to exceed \$106,575.00, and

WHEREAS, funds are budgeted in Capital Improvement Plan project 1350-310-M177, Sports Complex, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to award a contract to Purkiss Rose/RSI for

professional landscape architectural services to prepare a Master Plan and Design Development Report for Grogan Community Park at a cost not to exceed \$106,575.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves awarding a contract to Purkiss Rose/RSI for professional landscape architectural services to prepare a Master Plan and Design Development Report for Grogan Community Park at a cost not to exceed \$106,575.00.

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 March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT “A” or “Project”

Scope of Work Grogan Community Park

Project Description:

Grogan Community Park is an approximately 46-acre (39-net) site located adjacent to the future James C. Enochs High School site, north of Sylvan Avenue and west of Litt Road in the northeastern part of the City of Modesto. The park site is bordered on the west by the school site and on the other 3 sides by agricultural land. The City desires to develop the site into a community park with emphasis on athletic fields. The anticipated construction budget for this park is approximately \$11,240,000. The project will include the following:

- 1) Preparation of a Master Plan.
- 2) Public involvement in the design process.
- 3) Preparation of a Design Development Report that thoroughly describes the Master Plan and design intent so as to guide the development of working drawings.

The Master Plan phases for this project may include (but are not limited to):

- | | |
|-----------|--|
| Phase I | 20 Acres to include - Site preparation, Grading, Drainage, Irrigation, Paving, Shaded picnic area and furnishings, Landscaping, Off-street parking, Play equipment, Utility/service buildings, Game courts, Security lighting, Athletic fields and facilities, Centralized restrooms, Court and athletic field lighting, Signage |
| Phase II | 14 Acres to include - Site preparation, Grading, Drainage, Irrigation, Paving, Landscaping, Off-street parking for full build-out, Security lighting, Athletic fields and facilities, Conduit for lighting, Entry Features. 5 Acres of the above will be turf only for minimal use prior to the construction of the aquatic center and community center. |
| Phase III | Aquatics Center (approx. 2 acres) |
| Phase IV | Community Center (approx. 15,000 sq. ft. structure on - 3 acre site) |

Professional Services to Include:

Task #1 – Master Plan Development Total Cost Not To Exceed \$80,000.00

1. Review project intent, scope, approach and schedule of work with City staff, City School District and Stakeholders, as directed. (Staff Meeting #1)
2. Collect and review physical limitations and opportunities of the existing site, including configuration, drainage, external influences, access and relationships with the adjacent high school and residential development. Landscape Architect will provide a Boundary and Topographical Survey and will identify all existing utilities, easements, drainage, facilities, etc. Submit an initial report on the findings for staff review and input.
3. Develop a method for community input in the design process and confirm meeting schedule with City staff. Prepare flyer to be mailed by City to interested citizens.
4. Evaluate collected data and formulate with City staff a park development program. (Staff Meeting #2)
5. Throughout the Master Plan development process the Landscape Architect should consult with the Aquatic Consultant and Architect for size of facilities, needs and relational layout. A floor plan for the Aquatic Center and Community Center will not be required.
6. Prepare a maximum of three (3) preliminary development studies depicting alternate solutions to program needs for review with City staff.
7. Prepare a preliminary cost estimate of proposed improvements for each of the alternate solutions. Include any anticipated additional services.
8. Meet and confer with City staff as directed and present three (3) rendered alternative studies and preliminary cost estimates for discussion and input. (Staff Meeting #3)
9. Present three (3) alternative studies for community review and input as directed by City. (Community Meeting #1)
10. Refine preferred concept into a preliminary site plan, depicting project scope, space requirements and functional relationships for review and comment by City staff.
11. Prepare itemized cost estimate of proposed improvements for the preliminary site plan. Present phasing strategy consistent with funding availability. Include any anticipated additional services.
12. Meet and confer with City staff as directed and present the preliminary site plan, proposed programs, preliminary cost estimate and phasing strategy for discussion and input (Staff Meeting #4)
13. Present preliminary site plan, rendered for public presentation, for review and comment to the general public. Receive final input on the refined plans, phasing strategy and proposed programs. (Community Meeting #2)

14. Prepare a Final Rendered Master Plan that reflects the consensus of Staff and community. Provide Rendered Master Plan (full size) to City. Also provide an Electronic Image of the Master Plan on Compact Disc to City which can be printed by the City in various sizes for public distribution and display.

Task #2 – Design Development Report Total Cost Not To Exceed \$14,000.00

1. Prepare final itemized estimates of probable cost for development and anticipate maintenance.
2. Prepare a comprehensive Design Development Report that will including a rendered Master Plan, no larger than 11” x 17”, and a narrative describing the design process, the functional intent and requirements of proposed improvements, a phasing program, environmental impacts associated with the project including any mitigation measures required (as developed by City staff), and a final cost estimate for construction and ongoing maintenance. The Design Development Report should be developed in order to guide the development of working drawings and specifications.
3. Present Draft Design Development Report for review and comment of City Staff. Revise Report as directed by City Staff.
4. Present revised Design Development Report for review and comment of City Staff. Prepare Final Design Development Report based on comments and Deliver one (1) photo ready copy of the Design Development Report and one (1) Electronic file of the Report on CD to City Staff.
5. Present Design Development Report and Master Plan to the City Council at a public hearing for approval of Design Development Report and Master Plan and certification of Environmental Findings. Staff will assist in the presentation to City Council. (Community Meeting #3)

Proposed Compensation

The following fees are based on the scope of work described previously in Exhibit “A”. Payments will be made on a monthly basis when portions of the tasks are completed. The monthly billing should include billable work hours at the Hourly Rates included in Exhibit “B”, any sub-consultant bills at the Hourly Rates included in Exhibit “B”, and verifiable documentation on any reimbursable expenses incurred.

Task #1 – Master Plan Development (not to exceed)	\$ 80,000.00
Task #2 – Design Development Report (not to exceed)	\$ 14,000.00
Reimbursable Expenses (not to exceed budget)	\$ 7,500.00
<u>Additional Services (not to exceed budget)</u>	<u>\$ 5,075.00</u>
Total Contract Amount	\$ 106,575.00

Exhibit "B"

Hourly Rates

The following hourly rates will be used for billable hours within this Agreement and for additional work requested and approved:

Purkiss Rose-RSI Landscape Architecture, Recreation and Park Planning

Principal	\$ 135.00/hr.
Associate	\$ 115.00/hr.
Project Manager	\$ 95.00/hr.
Skate Park Designer	\$ 100.00/hr.
Project Captain	\$ 80.00/hr.
Draftsperson	\$ 70.00/hr.
Clerical and Word Processing Staff	\$ 45.00/hr.

Crane Architectural Group, Architectural

Principal	\$ 110.00/hr.
Staff Architect	\$ 90.00/hr.
Project Designer	\$ 70.00/hr.
Project Manager	\$ 45.00/hr.
CADD Draftsman	\$ 35.00/hr.
Draftsman	\$ 32.00/hr.
Clerical	\$ 30.00/hr.

Aquatic Design Group, Aquatic Engineers

Principal	\$ 125.00/hr.
Associate	\$ 100.00/hr.
CAD Technician	\$ 75.00/hr.
Graphics Technician	\$ 55.00/hr.
Clerical	\$ 25.00/hr.

Consolidated Engineering, Electrical Engineers

Principal Engineer	\$ 100.00/hr.
Project Engineer	\$ 85.00/hr.
Design Engineer	\$ 75.00/hr.
Design / Drafting	\$ 55.00/hr.
Clerical	\$ 35.00/hr.

Thompson-Hysell Engineers, Civil Engineers

President, Vice President, Director of Engineering.	\$ 125.00/hr.
Director of Mapping	\$ 120.00/hr.
Sr. Project Manager	\$ 115.00/hr.
Project Manager	
Project Manager, Sr. Project Surveyor	\$ 105.00/hr.
Mapping Supervisor, Project Surveyor, Sr. Project Engineer, Sr. Survey Analyst	\$ 100.00/hr.
Project Engineer, Assistant Project Manager, Sr.	

Project Designer	\$ 95.00/hr.
Sr. Designer, Project Designer, Sr. Design Engineer	\$ 90.00/hr.
Survey Analyst, Design Engineer, Designer	\$ 85.00/hr.
Design Technician	\$ 80.00/hr.
Assistant Engineer, Jr. Survey Analyst, Sr. CADD Technician	\$ 75.00/hr.
Jr. Engineer, CADD Technician	\$ 70.00/hr.
Research / Processing / Project Coordinator, Possessing Manager	\$ 65.00/hr.
Jr. CADD Technician	\$ 60.00/hr.
Engineering / Survey Aide, Office Work	\$ 55.00/hr.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-118**

**A RESOLUTION AWARDING A CONTRACT TO CALLANDER ASSOCIATES
LANDSCAPE ARCHITECTURE, INC. FOR PROFESSIONAL LANDSCAPE
ARCHITECTURAL SERVICES TO PREPARE A MASTER PLAN, DESIGN
DEVELOPMENT REPORT AND CONSTRUCTION DOCUMENTS FOR
FREEDOM NEIGHBORHOOD PARK AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE CONTRACT.**

WHEREAS, the City of Modesto currently owns the approximately 7-acre Freedom Neighborhood Park (formerly Merle Neighborhood Park) site immediately to the south of Sharon Avenue and west of the future Sylvan Union Elementary School Site on the corner of Sharon Avenue and Fine Avenue, and

WHEREAS, development of this neighborhood park is expected to begin in spring of 2004, and

WHEREAS, in order to be prepared to begin construction in spring of 2004, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2003-2004, and

WHEREAS, following the City's standard RFP process, a three (3) member panel determined that Callander Associates Landscape Architecture, Inc. was the most qualified firm to complete this project, due to their vast experience in designing neighborhood parks, and

WHEREAS, Callander Associates Landscape Architecture, Inc. has agreed to provide the services outlined in Exhibit "A" attached hereto and incorporated herein by reference at a cost not to exceed \$97,020.00, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to award a contract to Callander Associates

Landscape Architecture, Inc. for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Freedom Neighborhood Park at a cost not to exceed \$97,020.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of a contract to Callander Associates Landscape Architecture, Inc. for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Freedom Neighborhood Park at a cost not to exceed \$97,020.00.

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 March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT “A” or “Project”

Scope of Work Freedom Neighborhood Park

Project Description:

The City of Modesto wishes to develop a neighborhood park adjacent to Freedom Middle School. The total site area is approximately 7 acres, along Sharon Avenue. The City envisions that the site is to be a neighborhood park with a construction budget of \$805,000. Due to constraints on available funds, it is anticipated the construction will be phased in. The master plan, design development and construction documents will be comprehensive allowing for additive/deductive alternates and/or phasing. It is anticipated that park improvements will be as follows:

- Site preparation, grading and drainage.
- Pavement areas
 - pathways
 - play area border
 - pads for benches
 - pads for picnic tables
 - pad for one (1) shade structure
- One (1) Restroom foundation/pad with utility stubs.
- Landscaping including turf, trees, ground cover and shrubs.
- Automatic irrigation system including central control (with electrical connection).
- Electrical, sewer, water, storm drainage connections, and stub out when appropriate.
- Drinking fountain with water and sewer connection.
- Site furnishings.
- Conduit for future site electrical.
- Fencing.
- Play equipment including curb ramps and resilient surfacing.
- Water play feature.
- One (1) Restroom and / or utility building.
- Game courts (basketball, volleyball).
- Athletic fields (baseball, softball, and soccer).
- Picnic facilities (including one (1) shade structure, picnic tables, and barbecues).
- Security lighting. Ball field lighting is not part of the program.

All parking will be on street parking. A parking lot for the park is not part of the program.

Based on the above we have provided the following scope of services to be performed in chronological order. The items shown in *bold-face italics* represent documents to be provided to the City during that task.

Professional Services to Include:

Task #1 – Master Plan Development

Total Cost Not To Exceed \$24,700.00

- 1.01 Review project intent, scope, approach and schedule of work with City staff, and others, as directed in a joint staff meeting to review project limits, contact information, scope, schedule, budget, regulatory items, approval processes, and other administrative procedures. Provide *written summary* of conclusions.
- 1.02 Coordinate and obtain existing site and planning information from City and County records; prepare *base sheet* for the site. Coordinate and provide topographic survey showing boundary data from title reports provided by the City (boundary survey not included); provide *topographic survey*.
- 1.03 Review physical limitations and opportunities of the existing site. Conduct site reconnaissance and walk the site to visually review apparent features, utilities, and character and context of the site; photograph the site and general vicinity for use in reviewing with City. Prepare and provide a conceptual level *opportunities and constraints map* and *digital photo log* to City staff.
- 1.04 Visit schools and parks in the surrounding neighborhoods and prepare an inventory of amenities of facilities; provide brief *photo log* of facilities.
- 1.05 Develop a method for community input in the design process and confirm meeting schedule with City staff; prepare meeting *agenda*; prepare *flyer* to be copied and mailed by City to interested citizens. City to provide postage.
- 1.06 Prepare two (2) preliminary *design plans* depicting alternate solutions to program needs for review. Prepare one (1) typical concept level cost estimate.
- 1.07 Conduct work session with City staff to present the two (2) alternatives; develop consensus and provide written meeting *summary*.
- 1.08 Refine preliminary design plans as necessary.
- 1.09 Conduct interactive public workshop to present the above documents and concepts for community review and input; provide written meeting *summary*.
- 1.10 Review results of meeting and workshop with City staff in a single review session. At the review session, develop a consensus for proceeding. Prepare a meeting *summary*.
- 1.11 Refine the two (2) alternatives into a single *preliminary plan* (black and white) for review and comment by City. Prepare up to three (3) cross *sections* and an *enlarged plan* of a selected key area; provide *image boards* of proposed park improvements.
- 1.12 Refine documents as necessary.
- 1.13 Prepare a preliminary cost *estimate* of proposed improvements for the total facility and present a plan for logical phase development. Include list of *prioritized additive*

alternates , any additional services, allowances for change orders and City administration, and other items as reviewed with City staff.

- 1.14 Revise community meeting *flyer*, prepare *agenda* and conduct a second interactive public workshop to present the color preliminary plan, cost estimates and related documents; facilitate consensus and provide written meeting *summary*.
- 1.15 Prepare a Final Rendered Master Plan that reflects the consensus of Staff and community. Provide Rendered Master Plan (full size) to City. Also provide an Electronic Image of the Master Plan on Compact Disc to City which can be printed by the City in various sizes for public distribution and display.

Task #2 – Design Development Report Total Cost Not To Exceed \$5,300.00

- 2.01 Prepare a comprehensive *design development report* (DDR) that thoroughly describes the master plan and design intent so as to guide the development of the final construction documents. The report would include a *rendered master plan* (no larger than 11"x17") and a narrative describing the functional intent and requirements of proposed improvements; environmental impacts associated with the projects; a phasing program; *final cost estimate* for construction and on-going maintenance.
- 2.02 Submit Draft Design Development Report for review and comment of City staff. Revise Report as directed by City staff.
- 2.03 Submit revised Design Development Report for review and comment of City staff. Prepare Final Design Development Report based on comments from City and Deliver one (1) photo ready copy and one (1) electronic file of the report on compact disc to City staff.

Task #3 – Construction Documents Total Cost Not To Exceed \$49,700.00

- 3.01 Based on approved master plan, prepare preliminary (50% completion) *construction plans*, refined *cost estimate* and outline *specifications*. Deliver ten (10) sets of plans and specifications to City. City staff will require a minimum of two (2) weeks for review of 50% construction documents.
- 3.02 Conduct a single interdepartmental review session to review City comments. Prepare written *summary*.
- 3.03 Provide geotechnical evaluation of existing soils as warranted for pavements, minor grading, and building and pole foundation design. Submit *geotechnical report*; provide *horticultural soils report* for landscape soil preparation.
- 3.04 Prepare 90% level *construction plans*, *outline specifications* and refined *cost estimates*. Deliver ten (10) sets of plans and specifications to City. Prepare detailed cost estimates for all improvements as per City recommendations. City staff will require a minimum of three (3) weeks for review of 90% construction documents.

- 3.05 Based on comments received prepare 100% level construction plans, specs, and estimate. Plans will be prepared to allow for deductive and additive alternates or phased construction as necessary. City staff may require a minimum of one (1) week for review of 100% construction documents.

The construction documents for the park will include:

- grading and drainage plan (using 1' contours, scaled at 1"=40' minimum)
 - storm water pollution prevention plan
 - site construction staking plan
 - planting plan
 - irrigation plan
 - electrical plan
 - details and specifications
 - play equipment layout plan
 - structural details
 - technical specification
 - bid form
- 3.06 Submit for review and make necessary modifications as part of final submittal.
- 3.07 Present *itemized final cost estimate* for construction and on-going maintenance for review.
- 3.08 Provide one (1) set of *final original plans and specifications* for reproduction and one (1) AutoCAD version 2002 or earlier, *drawings file*.

Task #4 – Bidding and Construction Support Total Cost Not To Exceed \$7,050.00

- 4.01 Assist City staff in bidding process as required, including answering questions from bidders.
- 4.02 Attend pre-construction conference.
- 4.03 Review and process all *shop drawings and submittals* required by technical specifications.
- 4.04 Provide site reviews and prepare *reports* on construction progress and quality with recommendations for correction of any deficiencies (approximately four (4) field meetings).
- 4.05 Participate in the review of interim pay requests, if requested by the City.
- 4.06 Assist in determining and processing requests for information and change orders.
- 4.07 Make final review and *report* on completed project (one field meeting).

Proposed Compensation

The following fees are based on the scope of work described previously in Exhibit "A". Payments will be made on a monthly basis when portions of the tasks are completed. The monthly billing should include billable work hours at the Hourly Rates included in Exhibit "B", any sub-consultant bills at the Hourly Rates included in Exhibit "B", and verifiable documentation on any reimbursable expenses incurred.

Task #1 – Master Plan Development (not to exceed)	\$ 24,700.00
Task #2 – Design Development Report (not to exceed)	\$ 5,300.00
Task #3 – Construction Documents (not to exceed)	\$ 49,700.00
Task #4 – Bidding and Construction Support (not to exceed budget)	\$ 7,050.00
Reimbursable Expenses (not to exceed budget)	\$ 5,650.00
<u>Additional Services (not to exceed budget)</u>	<u>\$ 4,620.00</u>
Total Contract Amount Not to Exceed	\$ 97,020.00

Exhibit "B"

Hourly Rates

The following hourly rates will be used for billable hours within this Agreement and for additional work requested and approved:

Callander Associates Landscape Architecture, Inc., Recreation and Park Planning.

Senior Principal	\$170/hour	Landscape Architect 3	\$79/hour
Principal	\$149/hour	Construction Manager	\$92/hour
Senior Associate	\$132/hour	Assistant 1	\$75/hour
Associate 1	\$128/hour	Assistant 2	\$68/hour
Associate 2	\$106/hour	Assistant 3	\$59/hour
Associate 3	\$96/hour	Technician	\$51/hour
Landscape Architect 1	\$92/hour	Word Processor	\$75/hour
Landscape Architect 2	\$85/hour	Project Assistant	\$75/hour

Hawkins & Associates, Land Surveyor

Land Planning	\$100/hour	Clerical	\$45/hour
Civil Engineering	\$95/hour	Land Surveyor (Office)	\$95/hour
Project Manager	\$80/hour	Assistant Surveyor	\$65/hour
Associate Engineer	\$80/hour	2-Man Field Survey Crew	\$120/hour
Design Technician	\$65/hour	3-Man Field Survey Crew	\$155/hour
CADD Draftsman	\$55/hour		

Wallace-Kuhl & Associates, Inc., Geotechnical Sub-consultant

Soil Tester	\$77/hour	Project Engineer or Geologist	\$105/hour
Project Manager	\$90/hour	Senior Engineer or Geologist	\$115/hour
Staff Engineer or Geologist	\$95/hour	Principal Engineer or Geologist	\$145/hour

Zeiger Engineers, Inc., Electrical Engineer

Expert Witness	\$239/hour	Engineers	\$110/hour
Principals	\$155/hour	CAD Drafters	\$78/hour
Senior Engineers	\$115/hour		

Carlton Engineering, Inc., Structural Engineer

Principal	\$173/hour	Senior Special Inspector	\$82/hour
Associate Principal	\$139/hour	Staff Special Inspector	\$65/hour
Senior Engineer	\$128/hour	Sr. Special Inspector w/ Equip.	\$88/hour
Sr. Project Engineer	\$116/hour	Staff Special Inspector w/ Equip.	\$72/hour
Project Engineer	\$105/hour	CAD Designer	\$82/hour
Senior Staff Engineer	\$93/hour	Senior Draftsperson	\$74/hour
Senior Staff E.I.T.	\$93/hour	Staff Draftsperson	\$66/hour
Staff E.I.T.	\$85/hour	Junior Draftsperson	\$61/hour
Agency Liaison	\$82/hour	Clerical	\$47/hour
Project Facilitator	\$93/hour		

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-118A**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO CHANGE THE NAME OF PROJECT 1350-310-Q233 FROM MERLE NEIGHBORHOOD PARK TO FREEDOM NEIGHBORHOOD PARK, AND TRANSFERRING \$28,000 FROM PROJECT 1350-310-N445, PARK MASTER PLANNING/CONSTRUCTION DOCUMENTS TO 1350-800-8000-8003, THE FUND 1350 RESERVE, AND APPROPRIATING \$28,000 FROM 1350-800-8000-8003 TO 1350-310-Q233, MERLE NEIGHBORHOOD PARK.

WHEREAS, the City of Modesto currently owns the approximately 7-acre Freedom Neighborhood Park (formerly Merle Neighborhood Park) site immediately to the south of Sharon Avenue and west of the future Sylvan Union Elementary School Site on the corner of Sharon Avenue and Fine Avenue, and

WHEREAS, development of this neighborhood park is expected to begin in spring of 2004, and

WHEREAS, City Council Policy No 6.005 "Naming of City Parks" states that "Parks located adjacent to schools shall be given the same name as the school..." and in accordance with this existing City Council Policy, staff is recommending changing the name of this Park from Merle Neighborhood Park to Freedom Neighborhood Park., and

WHEREAS, in order to be prepared to begin construction in spring of 2004, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2003-2004, and

WHEREAS, following the City's standard RFP process, a three (3) member panel determined that Callander Associates Landscape Architecture, Inc. was the most qualified firm to complete this project, due to their vast experience in designing neighborhood parks, and

WHEREAS, Callander Associates Landscape Architecture, Inc. has agreed to provide the Master Plan, Design Development Report and Construction Documents at a cost not to exceed \$97,020.00, and

WHEREAS, \$80,000 is available in Capital Improvement Project 1350-310-Q233, and

WHEREAS, in order to fully fund the preparation of the Master Plan, Design Development Report and Construction Documents and related staff time, \$108,000 is needed in project 1350-310-Q233, and

WHEREAS, an additional \$28,000 is available in project 1350-310-N445, Parks Master Planning/Construction Documents, which will be transferred to the Fund 1350 Reserve and appropriated to project Q233, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to change the name of project 1350-310-Q233 from Merle Neighborhood Park to Freedom Neighborhood Park and to transfer \$28,000 from project 1350-310-N445 to 1350-310-Q233 to fully fund the preparation of the Master Plan, Design Development Report and Construction Documents and related staff time for Freedom Neighborhood Park,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Capital Improvement Program to change the name of project 1350-310-Q233 from Merle Neighborhood Park to Freedom Neighborhood Park, and transferring \$28,000 from project 1350-310-N445, Park Master Planning/Construction Documents to 1350-800-8000-8003, the Fund 1350 Reserve and appropriating \$28,000 to project 1350-310-Q233.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-119

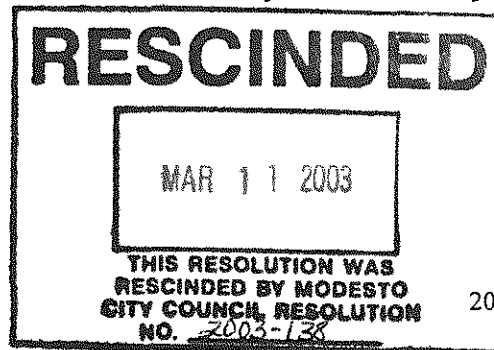
A RESOLUTION AUTHORIZING THE MAYOR TO SEND A LETTER TO THE STATE CONTROLLER REQUESTING THAT THE CONTROLLER INVESTIGATE THE USE OF LANDFILL ENTERPRISE FUNDS FOR PURPOSES NOT RELATED TO THE OPERATION OF THE LANDFILL, POSSIBLE OVERCHARGES AT THE FINK ROAD LANDFILL, AND PAYMENT OF MORE THAN THE APPRAISED VALUE OF PROPERTY PURCHASED WITH ENTERPRISE FUNDS

WHEREAS, at the February 25, 2003 Council meeting, the Council considered information presented to it regarding tipping fees at the Fink Road Landfill and the use of funds generated by those tip fees, and

WHEREAS, the Council directed that a resolution be prepared authorizing the Mayor to send a letter to the State Controller requesting an investigation of the Fink Road Landfill Enterprise Fund, and

WHEREAS, a draft of this letter is shown as **Exhibit A.**

NOW, THEREFORE, BE IT RESOLVED that the Modesto City Council hereby authorizes the Mayor to send the attached letter to the State Controller, after the March 4, 2003 meeting of the City Council, requesting that the Controller investigate the following actions by Stanislaus County: use of the Fink Road Landfill Enterprise Fund for purposes not related to landfill operations; possible overcharges on tipping fees at the Fink Road Landfill which led to the accumulation of a \$19.2 million pooled cash balance, and; use of \$14 million in Landfill Enterprise Funds to buy land that was appraised at \$10.75 million, the majority of which appears to not be necessary for landfill expansion purposes to meet county disposal needs.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Conrad

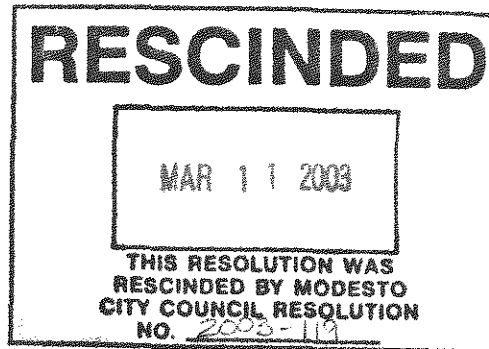
ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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



March 4, 2003

Steve Westley
State Controller
State of California
P.O. Box 942850
Sacramento, CA 94250-5872

Dear Controller Westley:

Enclosed please find a history of events and transactions surrounding the Stanislaus County Fink Landfill Enterprise Fund.

If you need additional information, please let us know and it will be made available to you.

Sincerely,

CARMEN SABATINO, Mayor

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-120

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MICHAEL
CONTENT FROM THE HOUSING REHABILITATION LOAN COMMITTEE,
EFFECTIVE MARCH 4, 2003**

WHEREAS, MICHAEL CONTENT was appointed a member of the Housing
Rehabilitation Loan Committee on March 6, 2001; and

WHEREAS, MICHAEL CONTENT has tendered his resignation from the Housing
Rehabilitation Loan Committee, effective March 4, 2003; and

WHEREAS, MICHAEL CONTENT 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 CONTENT
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
MICHAEL CONTENT 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 March, 2003, by Councilmember Fisher, who moved its
adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call
carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-121**

A RESOLUTION APPROVING A COST-SHARING AGREEMENT WITH STANISLAUS COUNTY FOR THE CABLECASTING OF CERTAIN COUNTY PROGRAMMING, INCLUDING ALL EMERGENCY BROADCASTS, ON A GOVERNMENT CHANNEL AVAILABLE THROUGH THE CITY'S FRANCHISE AGREEMENT WITH COMCAST CABLE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME.

WHEREAS, the City of Modesto and the Stanislaus County Office of Education, hereinafter referred to as "SCOE," are parties to an existing agreement allowing the City to establish a Master Control Room in the basement of the SCOE building, and

WHEREAS, City has negotiated a cable television franchise agreement with Comcast Cable which requires the City to establish its own Master Control Room for the cable casting of public, educational, and government programming, and

WHEREAS, City has agreed to cablecast certain County programming, including all emergency broadcasts, on a government channel available through the City's franchise agreement with Comcast Cable, and

WHEREAS, City has agreed to provide the County with staff and facilities for the operation and maintenance of a government channel available through the County's franchise agreement with Charter Communications, and

Whereas, City agrees to accept from County the sum of \$198,000 during the first year of the term of this Agreement as full remuneration for establishing and performing all services and furnishing all staffing, facilities and materials for performance by the City of all its duties and obligations under this agreement, and

Whereas, City agrees to accept from the County the sum of \$128,000 annually as full remuneration for performing all services and furnishing all staffing, facilities and materials for performance by the City of all its duties and obligations under this agreement, and

WHEREAS, this contract is retroactive to July 2, 2002 and will continue for a 10-year period, and

WHEREAS, City agrees to the terms and conditions as set forth in “**Attachment A,**” the Agreement between the City of Modesto and County of Stanislaus for the operation of Government and Educational Programming on AccessModesto Community Television, and

WHEREAS, the City and County believe that by working together in a cooperative effort both entities will be able to better meet their respective needs for government and educational programming in a way, which will result in increased operational efficiency thereby better serving the public, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the County of Stanislaus commencing on March 4, 2003, and causing such agreement to be retroactive to July 2, 2002.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

ATTACHMENT A

**AGREEMENT BY AND BETWEEN THE CITY OF MODESTO
AND COUNTY OF STANISLAUS FOR THE OPERATION OF
GOVERNMENT AND EDUCATIONAL PROGRAMMING ON
ACCESSMODESTO COMMUNITY TELEVISION.**

THIS AGREEMENT is made and entered into in the City of Modesto, State of California, this 4th day of March, 2003, by and between the CITY OF MODESTO, a Charter City and municipal corporation of the State of California, hereinafter referred to as "City," and the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County."

This Agreement is made with respect to the following recitals:

WHEREAS, City and the Stanislaus County Office of Education, hereinafter referred to as "SCOE," are parties to an existing agreement allowing the City of Modesto to establish a Master Control Room in the basement of the SCOE building, and

WHEREAS, City has negotiated a cable television franchise agreement with Comcast Cable which requires the City to establish its own Master Control Room for the cable casting of public, educational, and government programming, and

WHEREAS, City has agreed to cablecast certain County programming, including all emergency broadcasts, on a government channel available through the City's franchise agreement with Comcast Cable, and

WHEREAS, City has agreed to provide the County with staff and facilities for the operation and maintenance of a government channel available through the County's franchise agreement with Charter Communications, and

WHEREAS, this contract is retroactive to July 2, 2002, and

NOW, THEREFORE, it is mutually agreed by and between both parties hereto as

follows:

1. City agrees to provide staff, operate and maintain the government channels used by both the City and County. All employees shall not be considered employees of Stanislaus County and shall not be entitled to any benefits that are now, or may be in the future, Stanislaus County employee benefits.
2. City may enter into agreement with a third party or parties to operate the Master Control Room, which broadcasts the government channel(s). If the City contracts with a third party, the City shall require the third party to defend, indemnify and hold County harmless from and against any claim for any damages or liability of any kind that arises directly, indirectly or in any other manner out of the performance of this agreement or operation of the Master Control Room.
3. Day-to-day operations of the Master Control Room shall be vested in the control of the City and may be assigned to a third party or parties "independent contractor" hired by the City. The independent contractor shall report solely to the City, through its City Manager or his/her duly authorized designee, except for the County's government channel that is exclusively controlled by and the responsibility of the County through the Charter Communications Cable System. Notwithstanding the above, the independent contractor hired by the City to run the day-to-day operations shall be responsive to and assist County in carrying out the terms and obligations set forth in this Agreement between the City and County.

4. City shall have full control of and responsibility for all programming placed on the City's government channel.
5. County shall have full control of and responsibility for all programming placed on the County's government channel.
6. City shall provide adequate time for County Emergency Broadcasting Announcements on the public, education and government channels.
7. The City and County agree that political endorsements and/or political advertising material, outside of formal debates, is prohibited on the Education/Government channels operated by both the City and County. Any such programming may be directed to the City's Public Access Channel or any other public access channel provided within Stanislaus County.
8. City agrees to provide County with ample and fairly allocated access to cable capacity on the City's government channel for programming to meet the needs and interests of the residents of the City of Modesto, which will include all regularly and specially scheduled Stanislaus County Board of Supervisors meetings, Stanislaus County Planning Commission meetings, specially scheduled Stanislaus County Department programs, and/or other County special programs or events.
9. City agrees to provide County with ample and fairly allocated access to cable capacity on the City's education channel for programming to meet the needs and interests of the residents of the City of Modesto, which will include specially scheduled Stanislaus County Department programs and other County special programs or events. In exchange, the County agrees to provide ample and fairly allocated access to cable capacity on the County's government channel for

Stanislaus County Office of Education programming and City of Modesto programming that is considered a benefit to all residents of Stanislaus County.

10. City shall provide to the County a camera crew to produce, cablecast and/or videotape the following meetings originating from the basement chambers of Tenth Street Place, Modesto Centre Plaza, Modesto Police Department, or the Stanislaus County Office of Education: All regularly and specially scheduled Stanislaus County Board of Supervisors meetings, Stanislaus County Planning Commission meetings, and specially scheduled Stanislaus County Department programs (up to six (6) per year upon request).
11. City shall provide production and management of video bulletin boards in substantially the same manner for both City and County government channels.
12. City agrees to maintain regular hours of operation of the Master Control Room provided pursuant to the SCOE agreement as follows:
 - a. Monday through Friday 8 am – 5 pm for Tape Drop-Off for Public
 - b. Monday through Friday 10 am – 7 pm for Master Control Room Operation
 - c. Monday through Saturday as needed for Education/Government programming
 - d. Saturday and Sunday – Open only for Master Control Room Operation
 - e. On-Call – 24 hours per day and 365 days per year to oversee the use of the facility and provide technical management as needed
13. City agrees to provide adequate notice on the City's government channel of County programs and shall allow County to place adequate notices and announcements during County programs.
14. County agrees to assume all costs for production beyond the agreed upon production provided in the contract with the City.

15. Information necessary to the creation of the government video bulletin boards shall be submitted by the County to the City at least ten (10) days in advance of the requested air time. City agrees to make a good faith effort to include such County information if submitted after the ten (10) day notice period.
16. City shall duplicate tapes of all regularly and specially scheduled Stanislaus County Board of Supervisors meetings, Stanislaus County Planning Commission meetings, and specially scheduled Stanislaus County Department programs as requested by the County, and provide copies of those meetings to the Stanislaus County Board's Office and store master copies of those meetings in the Master Control Room Library. Master copies shall not be discarded or destroyed without the prior written consent of the Clerk of the Board to the City Manager's Office and Board of Supervisors Office.
17. City agrees to accept from County the sum of \$198,000 during the first year of the term of this Agreement as full remuneration for establishing and performing all services and furnishing all staffing, facilities and materials for performance by the City of all its duties and obligations under this agreement, with the exception of all equipment related to the County's channel provided by Charter Communications and all equipment related to the interconnect between Charter Communications and Comcast, Inc. This sum shall be paid in one lump sum, within thirty (30) days of approval of this Agreement by the Stanislaus County Board of Supervisors.
18. City agrees to accept from the County the sum of \$128,000 annually as full remuneration for performing all services and furnishing all staffing, facilities and materials for performance by the City of all its duties and obligations under this

agreement. This will be considered the “baseline” amount for the contract. This annual sum shall be paid on July 2, each year for the duration of this Agreement. All payments shall be paid to the City within thirty (30) days following date of receipt. A one and one half-percent charge will assess on any late payments.

19. County accepts responsibility for all costs related to the necessary equipment needed to operate the County’s channel provided by Charter Communications and all equipment related to the interconnect between Charter Communications and Comcast, Inc. and will provide a the City with an inventory of all equipment installed in the Master Control Room for such purpose.
20. During the term of the agreement, the City and/or County may require an audit of the financial operations of the Master Control Room, and upon mutual agreement, determine a new “baseline” charge. In the event that actual costs exceed projected costs, the sum set forth herein shall be subject to renegotiation between the parties. In the event that the costs of creating the Master Control Room are less than currently anticipated with respect to either party, such funds shall be retained by City for the sole purpose of maintaining the Master Control Room.
21. The parties agree to split the operating costs of the Master Control Room equally. Such costs shall be set forth in an annual budget to be prepared by the City. All funds provided by either party for the operation of the Master Control Room shall be utilized in accordance with the budget presented by City and approved by both the Modesto City Council and the Stanislaus County Board of Supervisors. The funds paid for operating costs by the parties will be used to provide management of the educational and government cable television channels and video production services as outlined previously in this Agreement.

22. City agrees to submit to County a final accounting of all revenues and expenses at the end of each year.
23. If City enters into cost-sharing agreement with any other agency for the operation of the Master Control Room, City agrees that it will convene a meeting with the County to determine a new "baseline" charge. In determining a new baseline, the City shall be compensated a fee equal to ten (10%) percent of operating expenses to compensate City for administrative overhead costs for all time spent by City staff, the City Manager's office, City Attorney's office, accounting, budgeting and administrative office space and facilities.
23. In the event that Comcast Cable reassigns channel numbers from the existing City controlled channel(s) to some new and different channel numbers, County shall not object to such reassignment. County acknowledges and agrees to an anticipated change in channel designations by the cable provider.
24. The City shall assume all liability related to the negligent maintenance of the Master Control Room, and shall indemnify and hold harmless County from and against all claims, damages, losses, liabilities, expenses and other costs including litigation costs and attorneys fees arising out of, or resulting from the City's negligent maintenance of the Master Control Room. City shall defend all claims arising from bodily injury or property damage relating to the maintenance of the Master Control Room except as to claims arising from negligent acts of the County, its agents, officers, and employees, or hazardous conditions caused by the City, its agents, officers, and employees. In the event that liability shall arise from the combined negligence of the parties, neither party shall have indemnity rights under this paragraph against the other. In the event of a claimed default or

claimed breach by either party of any covenant or condition contained in this Agreement, the parties agree to submit all disputes, controversy, differences or deadlocks in resolving issues which require an agreement of the parties relating to or arising out of this Agreement, that cannot be resolved by discussions between City-County staff for resolution initially to the City Manager of the City of Modesto and the Chief Executive Officer for the County of Stanislaus. If the City Manager and Chief Executive Officer of the County are unable to resolve the matter, then the parties shall agree on an arbitrator and shall submit the matter to binding arbitration. If the parties are unable to agree on an arbitrator, then the parties shall submit to binding arbitration administered by the Judicial Arbitration and Mediation Services, Inc. ("JAMS") unless the parties involved agree to another alternative dispute resolution method.

25. Initiation of Arbitration. Arbitration shall be initiated in the following manner:

25.1 Initiating Party. Any party may initiate the arbitration by serving the other party or parties with a demand for arbitration by registered, certified or FedEx mail. The demand for arbitration shall state the nature and amount of the claim, if applicable, or otherwise describe with reasonable particularity the nature of the dispute or controversy and the relief sought. Unless the parties agree on a non-JAMS arbitrator, the initiating party shall file a copy of the demand at any regional office of JAMS, together with the appropriate filing fee.

25.1.1 Response. If the responding party or parties desire to file a response and/or counterclaim, they must do so within twenty (20) days of service of the demand. Failure to file a counterclaim, they must do so within twenty

(20) days of service of the demand. Failure to file a counterclaim or response will not operate to delay the arbitration proceedings.

25.1.2 No Further Claims. After the filing of the claim, response and counterclaim, no further claims or counterclaims may be made except on motion to the arbitrator.

25.2 Appointment and Powers of Arbitrator.

25.2.1. Choosing an Arbitrator. If the parties are unable to agree on the choice of an arbitrator within twenty (20) days from service of the notice and demand for arbitration, then any party may request from JAMS a list containing at least ten (10) names of available arbitrators, accompanied by their resumes, if available. Each party shall have ten (10) days from mailing of the list in which to cross off the names of not more than four (4) arbitrators they deem objectionable, number the remaining names to indicate the order of preference and return the list to JAMS. If a party does not return the list within ten (10) days, then all persons named therein shall be deemed acceptable to that party. From among the persons who have been approved on the lists of all parties, and in accordance with the designated order of mutual preference, JAMS shall invite an arbitrator to serve. If acceptable arbitrators are unable to serve, or if any other reason the appointment cannot be made from the submitted lists, then JAMS shall have the power to make the appointment from among other retired judges on the panel, without the submission of any additional list.

25.2.2. Powers of Arbitrator, Generally. Subject to Section 25.2.4, the arbitrator shall have full power to make such regulations and to give all orders and

directions as he or she shall deem just and appropriate, not only in respect to the matters, disputes and claims submitted for decision, but also with respect to the mode and times of executing and performing any of the acts, deeds or other matters which may be directed to be done or awarded.

25.2.3. Production of Books and Records. The arbitrator shall have the authority and power to request the production of any books or records in the possession or control of any of the parties, and to order that any party in the meantime shall have access to and be permitted to inspect and take copies of all or any of the same relating to the matters in dispute.

25.2.4. Grant of Relief. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this Agreement, including, but not limited, injunctive relief and/or specific performance, provided, however, that the Arbitrator shall not be entitled to grant injunctive relief of any kind to any party which disrupts or interferes with the provision of cable television programming pursuant to this Agreement.

25.2.5. Proceeding Ex Parte. Should any party refuse or neglect to furnish the arbitrator with any papers or information demanded, or fail to attend hearings, the arbitrator is empowered by all parties to proceed ex parte.

25.3. Costs and Fees. Each party to the arbitration shall be responsible for its own costs and expense of the arbitration and the costs and fees of JAMS shall be borne equally by the parties to the arbitration.

25.4. Proceedings/Format.

25.4.1. Pre-hearing. Once the arbitrator is chosen, the Arbitration Administrator at JAMS may be authorized and directed upon application of any party to schedule a pre-hearing conference with the arbitrator for the purpose of narrowing the issues, establishing a discovery schedule, arranging an acceptable procedure for any law and motion proceedings and in all respects arranging for the most expeditious hearing possible of the matters in dispute.

25.4.2. Discovery. Discovery shall be at the discretion of the arbitrator and allowed only upon a showing of good cause utilizing the following guidelines.

25.4.2.1. Arbitrator's Discretion. The arbitrator shall have discretion to order pre-hearing exchange of information, including, but not limited to, the production of requested documents and exchanges of summaries of testimony of proposed witnesses.

25.4.2.2. Depositions. Each party may depose no more than three non-expert witnesses, whether they are party or nonparty witnesses. Any such depositions shall be completed no later than ten (10) days prior to the arbitration hearing. Notice of deposition need not comply with the formal requirements of California law, and may consist of a letter from one party's counsel to the other counsel, but such notice shall be faxed or hand-delivered at least ten (10) days prior to the scheduled deposition. The parties' counsels shall endeavor in good faith to schedule and coordinate depositions in the most efficient manner possible.

25.4.2.3. Interrogatories. No party may serve any interrogatories on another party.

25.4.2.4. Expert Witnesses. There shall be an early and prompt designation of expert witnesses who may be called upon to testify at the arbitration hearing. Their depositions and all other discovery shall be allowed only upon a showing of good cause.

25.4.3. Evidence. Judicial rules relating to the order of proof, the conduct of the hearing and the presentation and admissibility of evidence shall not be applicable in this proceeding. Any relevant evidence, including hearsay, shall be admitted by the arbitrator if it is the sort of evidence upon which responsible persons are customarily to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law.

25.4.4. Location and Time of Hearing. The arbitration hearing shall be conducted in Modesto, California, unless the parties agree upon another location. The arbitrator shall fix the time for hearing and provide each party with at least fifteen (15) days' written notice thereof.

25.4.5. Counsel. Any party may be represented by counsel in the arbitration.

25.4.6. Time Limits. To the extent possible, the arbitration shall be scheduled on consecutive days from 9:00 A.M. to 5:00 P.M., with a one-hour lunch break. The award shall be made by the arbitrator on or before thirty (30) days after final submission of all matters.

25.4.7. Reasoned Opinion: Jurisdiction. In rendering the award, the arbitrator shall set forth the reasons for his or her decision. The arbitrator shall follow the substantive law and the rules of equity of the State of

California, including the provisions of California law dealing with arbitration as they exist at the time of the arbitration except to the extent such provisions are inconsistent with this Agreement. The arbitrator may grant any remedy or relief inconsistent with this Agreement. The arbitrator may grant any remedy or relief that the arbitrator determines to be just and reasonable, except injunctive relief as set forth in Section 25.2.4, according to the applicable laws and within the scope of this Agreement.

- 25.5. Fees and Costs. Attorneys' fees, costs and expenses incurred in connection with the arbitration shall be awarded in accordance with the provision of this Agreement, and in accordance with the provisions of California law and the rules of practice and procedure of JAMS to the extent such rules do not conflict with this Agreement.
- 25.6. Additional Procedures. The foregoing procedures shall be supplemented by the rules of practice and procedure of JAMS in effect at the time of the arbitration to the extent such rules do not conflict with anything stated above.
- 25.7. Other Relief. The foregoing provisions for non-binding arbitration shall not prevent any party from seeking relief from a court of competent jurisdiction in the event of a breach or other conduct by any party which threatens the innocent party with irreparable injury. All parties agree to waive any and all claims to injunctive relief.

26. Should any part, term or provision of the Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or

otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

27. This Agreement shall not be assignable.

This Agreement is effective as of the date first written above and will continue in effect for a period of ten (10) years.

28. This Agreement may be modified and amended at any time by the mutual agreement of the parties in writing.

29. This Agreement may be terminated prior to its term in the event of the occurrence of any of the following:

1. County fails to meet its financial obligations for services rendered.
2. City fails to perform its duties and obligations as set forth in the terms of this Agreement.
3. Mutual written agreement of the parties.

30. At all times during the course of this Agreement and upon termination or cancellation of this agreement, all equipment, improvements and personal property of any kind located on the property described herein shall be the sole property of the City, except for the equipment purchased by the County for the sole purpose of broadcasting the County's government channel on the Charter Communications Cable System. The County agrees to provide City an inventory of all equipment to be installed in the Master Control Room, prior to its installation, to which the County intends to retain title.

31. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

32. This Agreement, consisting of a total of sixteen (16) pages, may be executed in counterpart.

33. All words used herein in the singular number shall include the plural and the present tense shall include the future and the masculine gender shall include the feminine and neuter.

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 City Council of the City of Modesto on the 4th day of March 2003, and the County of Stanislaus has caused this Agreement to be executed.

COUNTY OF STANISLAUS

CITY OF MODESTO

By: _____

REAGAN WILSON
Chief Executive Officer

By: _____

JACK R. CRIST,
City Manager

ATTEST:

By: _____

JEAN ZAHR, City Clerk

Approves as to Form:
MICHAEL H. KRAUSNICK

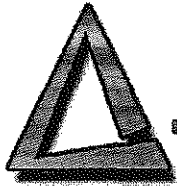
Approves as to Form:
MICHAEL D. MILICH

By: _____
County Counsel

By: _____
City Attorney

By: _____
DONALD N. NORRIS,
Risk Manager

Proposed Budget for



accessmodesto
PUBLIC • EDUCATION • GOVERNMENT

**Proposed Budget for AccessModesto
FIRST YEAR**

	<u>TOTAL EXPENSES</u>	<u>County Share</u>	<u>City Share</u>
Final Cut Media	\$160,000	\$80,000	\$80,000
Equipment (To date)	\$130,000	\$65,000	\$65,000
Operating Budget	\$ 90,000	\$45,000	\$45,000
Emergency Back-up at SCOE Facility	\$ 6,000	\$ 3,000	\$ 3,000
Satellite	\$ 10,000	\$ 5,000	\$ 5,000
	_____	_____	_____
TOTAL	\$396,000	\$198,000	\$198,000

NOTE: County accepts responsibility for all costs related to the necessary equipment needed to operate the County's channel provided by Charter Communications and all equipment related to the interconnect between Charter Communications and Comcast, Inc. These costs are not included above.

**Proposed Total Budget for AccessModesto
ONGOING**

	<u>TOTAL EXPENSES</u>	<u>County Share</u>	<u>City Share</u>
Final Cut Media	\$160,000	\$80,000	\$80,000
Operating Budget	\$ 90,000	\$45,000	\$45,000
Emergency Back-up at SCOE Facility	\$ 6,000	\$ 3,000	\$ 3,000
TOTAL	\$256,000	\$128,000	\$128,000

**Proposed Budget for AccessModesto
OPERATING BUDGET
BREAKDOWN**

<u>Object #</u>	<u>Title</u>	<u>Amount</u>
0110	Staffing (One FTE)	\$40,000.00
0202	Postage	\$ 4,300.00
0205	Printing (Policies, forms, etc.)	\$ 4,000.00
0208	Business Expenses (Travel,	\$ 2,900.00
0209	Training/Conference (for City/County staff)	\$ 4,500.00
0230	Advertising (Schedules, Programming, Services)	\$ 5,000.00
0235	Professional Services (Legal/Broadcast Engineers)	\$ 5,800.00
0301	Office Supplies	\$ 3,000.00
0401	Membership Dues (SCAN-NATOA, Alliance for CM)	\$ 500.00
5400	Equipment (Webcasting, maintenance, transmitter replacements)	\$20,000.00
TOTAL		\$90,000.00

City Share: \$45,000 Annually
 County Share: \$45,000 Annually

(NOTE: This budget does not reflect costs for the purchase of broadcast airtime).

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-122**

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN TO ADOPT CHANGES TO: THE CIRCULATION AND TRANSPORTATION MAP, SCHOOL POLICY TEXT, ARCHAEOLOGICAL AND CULTURAL RESOURCE POLICIES, AIRPORT NOISE POLICY, EMPLOYMENT ESTIMATES, AND SALIDA COMPREHENSIVE PLANNING DISTRICT, (CITY INITIATED, FILE NO. GPA 2003-01)

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, in accordance with Section 65300 of the Government Code, and

WHEREAS, on August 15, 1995, prior to the adoption of the City of Modesto Urban Area General Plan, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report (“MEIR”) for the Urban Area General Plan (SCH No. 92052017); and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body up to four times per year, and

WHEREAS, said General Plan has been 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 and 2002-526, copies of which are on file in the office of the City Clerk, and

WHEREAS, following adoption of the City’s Capital Facilities Fees (CFF) Update in 1999 a general plan amendment to the General Plan Circulation and Transportation Diagram roadway network was initiated by City Staff, as modified by

certain recommended upgrades and downgrades by Engineering and Transportation staff, to reflect said CFF program; and

WHEREAS, additional amendments to the General Plan to reflect changes in various laws and regulations and a traffic model update were initiated including: Airport Noise Policy, Historic Resource Policy, Schools Policy, Employee Estimates, and Salida Comprehensive Planning District, a copy of which is attached as **Exhibit “A”**; and

WHEREAS, pursuant to Public Resources Code Section 21157.6, a Draft comprehensive update to the City’s General Plan Master Environmental Impact Report (“MEIR Update”) (SCH No. 1999082041) document was prepared to meet the Public Resource Code requirements regarding adequacy of environmental review, that includes analysis of the proposed General Plan Amendments along with a detailed traffic study, a copy of which is available at the Community and Economic Development Department, 1010 Tenth Street, Modesto, 95354, and

WHEREAS, the Draft MEIR Update was circulated for a 45-day public review period from November 25, 2002 to January 8, 2003, and

WHEREAS, on December 10, 2002 copies of the proposed General Plan Amendment, and notice of public hearings for the amendment was sent to the appropriate entities as described in Government Code Section 65352 for the required 45-day review period starting December 13, 2002 and ending January 27, 2003, and

WHEREAS, City staff determined that this General Plan amendment meets the Amendment Criteria set forth in Section II-C (4) of the General Plan, and

WHEREAS, on February 10, 2003, 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 relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, after said public hearing, the Modesto Planning Commission adopted Resolution No. 2003-08, recommending to the City Council recommended the City Council certify the MEIR Update and adopt the related statement of findings of significant impacts and rejection of alternatives, statement of overriding considerations, and a mitigation monitoring program, and

WHEREAS, concurrent with its review of the proposed General Plan Amendment, the City Council certified a Final Master Environmental Impact Report Update (SCH#1999082041) (“FMEIR Update”) for the Modesto Urban Area General Plan that comprehensively updated the document pursuant to the requirements of Public Resources Code Section 21157.6, and analyzed the proposed General Plan Amendment, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on March 4, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan text and diagrams in the Community Development Policies, Community Services and Facilities, Public Safety, and Environmental Resources and Open Space Sections of the General Plan Sections as set forth in **Exhibit “A”**.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban Area General Plan to adopt changes to the Circulation and Transportation map, School

Policy text, Archaeological and Cultural Resource policies, Airport Noise policy, Employment Estimates, and Salida Comprehensive Planning District, is required for the public health, safety and welfare of the citizens of Modesto because:

1. The amendment will revise the City's General Plan street system to be more economically efficient and these changes would improve the City's ability to finance necessary future roadway improvements. The amended street system will provide for the safe circulation of traffic at General Plan buildout.
2. The amendment will revise historic resources policies contained in Chapter VII of the General Plan (Environmental Resources and Open Space) to be consistent with Section 21084.1 of the Public Resources Code and Section 15064.5 of the CEQA Guidelines. The amended policies will provide for the integration of the cultural resources identified by the Modesto Landmark Preservation Commission into the General Plan, thereby improving the consistency of Commission and General Plan land use policies.
3. The amendment will provide appropriate Airport Noise studies including new contours to meet FAA requirements when an upgrade to jet air service for the City occurs. This will improve consistency between the General Plan and future airport planning and expansion activities, particularly in the area of noise element compliance.
4. The amendment will update the land uses in the Salida area to provide more realistic build out projections to assist in future planning efforts and analysis of infrastructure needs. Consolidation of the Stoddard, Stoddard/Dale, and Highway 99 Comprehensive Planning Districts (CPD's) with the Salida CPD would reflect a more efficient planning approach for the area. This consolidation and related Modesto General Plan policy amendments would be under-taken under the City's planning powers, and would not affect either Stanislaus County's authority to adopt a Salida Community Plan or the County's authority to determine the contents of that plan.
5. The amendment will update School facilities policies consistent with state law, specifically SB-50 and Prop 1A, regarding financing public school construction. This will conform City policies to the controls on school facilities financing established by state law.
6. The amendment will update future employment estimates to reflect current information on employment generation that has been

gathered from other communities with similar types of development. This improves the accuracy of projections that are made for planning purposes. These updated employment estimates are included in the Master EIR traffic model database.

and said General Plan is hereby amended to read as shown on **Exhibit "A"** attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the General Plan to the Board of Supervisors, and 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 Council of the City of Modesto held on March 4, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

Noes: Councilmembers: Jackman

Absent: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

URBAN AREA GENERAL PLAN AMENDMENT

**This Exhibit is included with the City Council Agenda Packet.
Please refer to Attachment "D"**

Urban Area General Plan Amendment Text and Map Revisions

Below is a list of the location and type of revisions proposed to the City of Modesto Urban Area General Plan by this Amendment. Attached are the pages that reflect the changes that will result from amendment adoption. Additions are *italicized*, deletions are denoted by ~~strikeouts~~.

Chapter	Section	Page No.	Text/Map Revision	Amendment to
I	B	I-2	text	Community Vision Policies
III	D	III-14	Exhibit III-1, map	CPD Summary
III	D	III-15 & 16	Exhibit III-1, table	CPD Summary
III	D	III-18	Exhibit III-2, text	Beckwith/Dakota CPD
III	D	III-21	Exhibit III-3, text	Coffee/Claratina CPD
III	D	III-24	Exhibit III-4, text	College West CPD
III	D	III-33	Exhibit III-6, text	Empire North CPD
III	D	III-36	Exhibit III-7, text	Fairview CPD
III	D	III-40	Exhibit III-8, text	Hetch Hetchy CPD
III	D	III-42 – 44	Exhibit III-9, text & map	Remove Highway 99 CPD
III	D	III-46	Exhibit III-10, text	Highway 132 CPD
III	D	III-49	Exhibit III-11, text	Johansen CPD
III	D	III-52	Exhibit III-12, text	Kiernan/Carver CPD
III	D	III-56	Exhibit III-13, text	Kiernan/Carver North CPD
III	D	III-60	Exhibit III-14, text	Kiernan/McHenry CPD
III	D	III-63	Exhibit III-15, text	North Beyer CPD
III	D	III-66	Exhibit III-16, text	Paradise/Carpenter CPD
III	D	III-69	Exhibit III-17, text	Pelandale/McHenry CPD
III	D	III-73	Exhibit III-18, text	Pelandale/Snyder CPD
III	D	III-77	Exhibit III-19, text	Roselle/Claribel CPD
III	D	III-79 – 89	text and map	Salida CPD
III	D	III-93 – 96	text and map	Remove Stoddard CPD
III	D	III-97-100	text and map	Remove Stoddard/Dale CPD
III	D	III-112	Exhibit III-26, text	Whitmore/Carpenter CPD
III	D	III-	Figure III-1	Land Use Diagram
V	E	V-16	text	Storm Drainage policy
V	H.	V-25	text	School Policy
V	Graphics	V-33	Figure V-1 (sheet 1 of 2)	Circulation Diagram
V	Graphics	V-34	Figure V-1 (sheet 2 of 2)	Circulation Diagram
VI	C	VI-4	text	Flood Hazard Policy
VII	F	VII-10	text	Cultural Resources Policies
VII	F	VII-11	text	Cultural Resources Policies
VII	G	VII-16	text	Airport Noise Policy
VII	Graphics	VII-21	Figure V-3-2 (sheet 1 of 6)	Noise Contours
VII	Graphics	VII-22	Figure V-3-2 (sheet 2 of 6)	Noise Contours
VII	Graphics	VII-23	Figure V-3-2 (sheet 3 of 6)	Noise Contours
VII	Graphics	VII-24	Figure V-3-2 (sheet 4 of 6)	Noise Contours
VII	Graphics	VII-25	Figure V-3-2 (sheet 5 of 6)	Noise Contours
VII	Graphics	VII-26	Figure V-3-2 (sheet 6 of 6)	Noise Contours

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: COMMUNITY VISION POLICIES,
PAGE I-2**

2. Visions for the Future

The Modesto Urban Area General Plan provides an opportunity to address a variety of visions, as follows:

a. Overall Mission Statement

The following Mission Statement, originally developed by the General Plan Citizens' Steering Committee, remains the most appropriate statement to guide the overall future development of the Modesto community. Altered slightly to fit the context, the Mission Statement of the Modesto Urban Area General Plan reads as follows:

The Modesto Urban Area General Plan addresses the collective challenges of the future. The Urban Area General Plan presents a blueprint for the preservation of Modesto's "quality of life" while providing direction for the growth of business and industry to meet the needs of the future generations in the Modesto community.

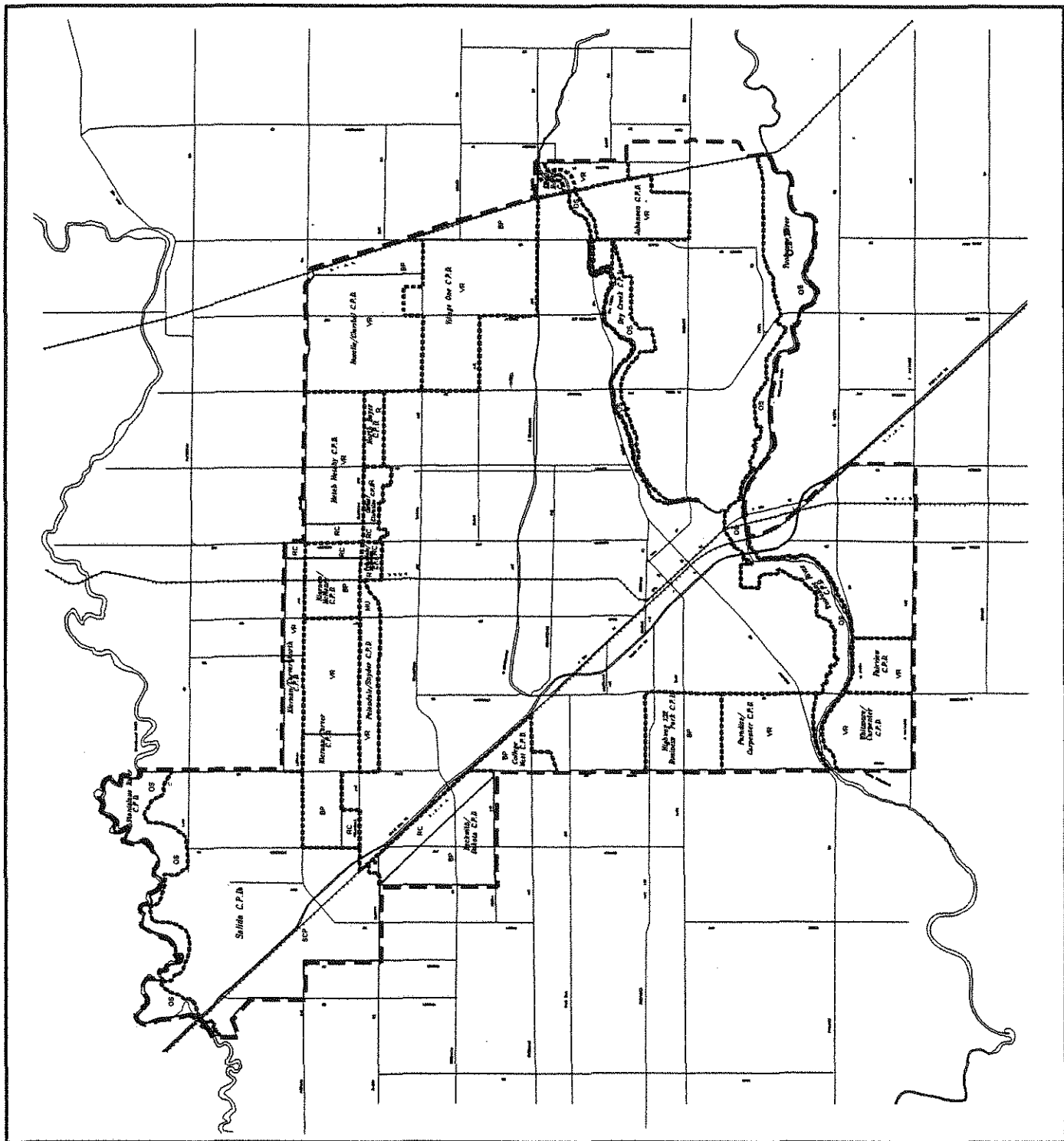
b. Employment Opportunities

A guiding force in this General Plan is economic development to provide jobs to match population growth. This General Plan provides for a total of ~~3,800~~ 5,000 acres of new Business Park and ~~4,300~~ 1,000 acres of Commercial land uses. Through these new land uses, along with miscellaneous support commercial land uses in future residential areas, opportunities for land use supporting more than ~~200,000~~ 144,000 new jobs are created in this General Plan.

c. More Comprehensive Planning

As Modesto grows, there will be a need for comprehensive planning approaches to deal with increasingly complex land development and public facilities and service issues. Chapter II of this Plan presents a strategy to recognize the urbanized community as it exists in 1995. The land use pattern in this area, termed the Baseline Developed Area, is not expected to change substantially. Future growth would occur in accordance with existing City zoning designations, and with other City policies in existence as of the Base Year (1995) of this General Plan. This strategy allows the City to concentrate its future growth in the Redevelopment Area, and in the Planned Urbanizing Area, which forms the outer perimeter of the General Plan area. Future projects in the Planned Urbanizing Area are guided by focused policies in the form of Comprehensive Planning Districts.

Exhibit III - 1
COMPREHENSIVE PLANNING DISTRICT SUMMARY



PROPOSED AMENDMENT TO GENERAL PLAN TEXT: COMPREHENSIVE PLANNING DISTRICT SUMMARY, PAGE III-15

Exhibit III-1

COMPREHENSIVE PLANNING DISTRICT SUMMARY

<u>Exhibit No.</u>	<u>Comprehensive Planning District (CPD)</u>	<u>Land Use Designations Within the CPD</u>	<u>Acreage</u>
III-2	Beckwith/Dakota	Business Park Regional Commercial	690 350
III-3	Coffee/Claratina	Residential Regional Commercial	130 40
III-4	College West	Business Park	240
III-5	Dry Creek	Open Space	460
III-6	Empire North	Village Residential	270
III-7	Fairview	Village Residential	350
III-8	Hetch Hetchy	Village Residential Regional Commercial	860 120
III-9	Highway 99	Regional Commercial	570
III-10	Highway 132	Business Park	660
III-11	Johansen	Village Residential	610
III-12	Kiernan/Carver	Village Residential Business Park Regional Commercial	650 660 75
III-13	Kiernan/Carver North	Village Residential Regional Commercial	450 30
III-14	Kiernan/McHenry	Business Park Regional Commercial	370 100
III-15	North Beyer	Residential Mixed Use	130 30
III-16	Paradise/Carpenter	Village Residential	810
III-17	Pelandale/McHenry	Residential Regional Commercial	50 30
III-18	Pelandale/Snyder	Village Residential Mixed Use	330 60
III-19	Roselle/Claribel	Village Residential	1,430

PROPOSED AMENDMENT TO GENERAL PLAN TEXT: COMPREHENSIVE PLANNING DISTRICT SUMMARY, PAGE III-16

		Business Park	260
III-20	Salida	Salida Community Plan	1,450
			4,472
III-21	Stanislaus River	Open Space	810
III-22	Stoddard	Village Residential	820
		Business Park	380
III-23	Stoddard/Dale	Village Residential	860
		Business Park	320
III-24	Tuolumne River	Open Space	1,380
III-25	Village One	Village Residential	1,620
		Business Park	220
III-26	Whitmore/Carpenter	Village Residential	690

GPA 2 (1/16/96)
GPA 9 (4/13/99)

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) The commercial uses adjacent to Freeway 99 shall be designed to present an attractive gateway to the City.

c. Housing Policy Implementation:

Because this Comprehensive Planning District does not propose any residential uses, the Housing Policies presented in Chapter IV do not apply to this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. Sewer service for this Comprehensive Planning District may be the installation of the West No. 2 sanitary sewer trunk or an alternative solution for sewer service may be found at the time of the preparation of a Comprehensive Plan. A limited tie-in to the existing West Trunk may be permitted as an interim measure as determined by the Public Works and Transportation Department.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~31,000~~ 26,000 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundary between the Regional Commercial uses and the Business Park uses shall be determined by the Comprehensive Plan.

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system.

6. Mitigated Negative Declaration:

General Plan Policy III(D)(1)(g) specifically exempts the Coffee/Claratina Specific Plan from the requirement to prepare a Focused EIR. CEQA review for this Comprehensive Planning District shall be satisfied by a Mitigated Negative Declaration prepared pursuant to Section 2115.71 of CEQA.

The Mitigated Negative Declaration for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 1,000 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~800~~ 1340 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: COLLEGE WEST CPD,
PAGE III-24**

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District is presently served by the West sanitary sewer trunk.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~8,400~~ 6,290 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The Final EIR prepared for the College West Industrial Park in 1991, should be consulted on the preparation of the Comprehensive Plan for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: EMPIRE NORTH CPD,
PAGE III-33**

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 1,400 dwelling units was assumed for the Comprehensive Planning District.
- b. A total of 270 employees was assumed for this Comprehensive Planning District.
- c. A biological analysis will need to be prepared.

7. Special Considerations Unique to this Comprehensive Planning District:

Special considerations are as follows:

- A. The Santa Fe Railroad.
- B. The Dry Creek and the flood plain
- C. The segmented nature of the CPD.
- D. The Eastside Mosquito Abatement District's Airstrip.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: FAIRVIEW VILLAGE CPD,
PAGE III-36**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 2,250 dwelling units.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a short subtrunk extension from the trunk sewer in South Modesto.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 2,250 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of 800 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundaries of this Comprehensive Planning District will be determined by the Comprehensive Plan.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: HETCHY HETCHY CPD,
PAGE III-40**

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 4,400 dwelling units.
- (2) The Hetch Hetchy right-of-way, power lines, and aqueduct that traverse this Comprehensive Planning District present a significant design constraint that should be addressed.
- (3) The regional commercial uses should be located along the east side of McHenry Avenue to join the established commercial uses along McHenry Avenue.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by an extension of the North Trunk from Dale Road easterly through two Comprehensive Planning Districts: Kiernan/Carver and Kiernan/McHenry.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 4,400 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~3,100~~ 4,000 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundary between the Village Residential and Regional Commercial uses will be determined by the Comprehensive Plan.

Exhibit III-9

HIGHWAY 99

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This 570-acre Comprehensive Planning District proposes regional commercial uses to take advantage of proximity to Highway 99, and to present a "gateway" to Modesto.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- 570 acres designated "Regional Commercial"

b. Distribution of Land Uses Within the CPD

Not applicable, as there is only one land use proposed.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

(1) Overall Land Use Policies (Section III-C(1))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

(1) The Regional Commercial uses located adjacent to Freeway 99 shall be designed to present an attractive gateway to the City.

c. Housing Policy Implementation:

Because this Comprehensive Planning District does not propose any residential uses, the Housing Policies presented in Chapter IV do not apply to this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District can be served by a Westerly extension of the North Sanitary Sewer Trunk. However, downstream capacity in the system cannot accommodate the Highway 99 Comprehensive Planning District and Stoddard Comprehensive Planning District and the planned easterly extension to serve the City's North end. At some point, the westerly leg of the North Trunk will have to be served by the West No. 2 Trunk and a force main and trunk to the primary treatment plant.

6. Focused EIR:

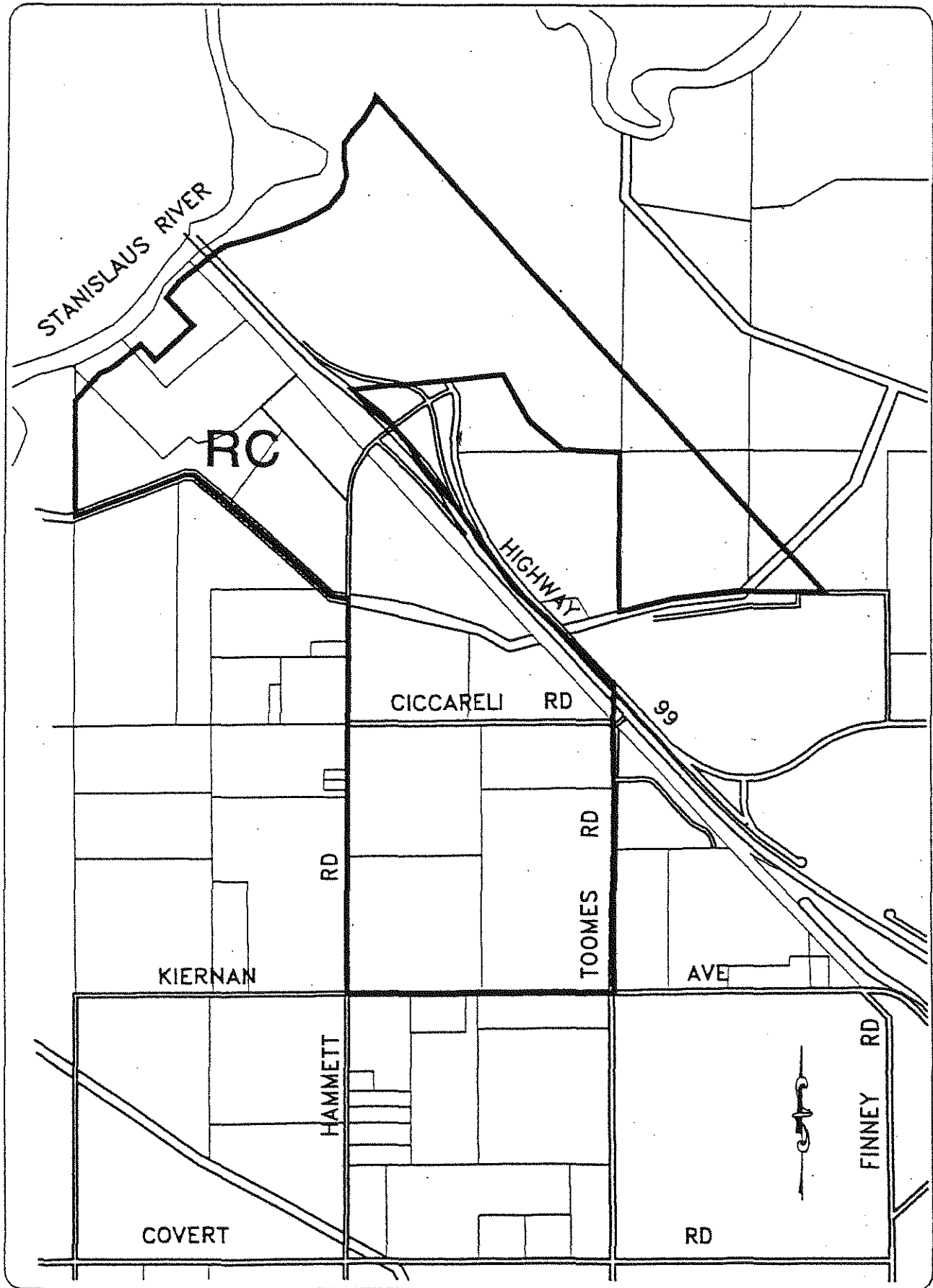
The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 11,000 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundaries of this Comprehensive Planning District will be determined by the Specific Plan.

HIGHWAY 99 C.P.D.



5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District is already served by the West Sanitary Sewer Trunk.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~23,100~~ 15,400 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: JOHANSEN CPD,
PAGE III-49**

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 3,100 dwelling units.
- (2) Johansen High School and Sutton Community Park, as significant existing public facilities, should be a focal point in this Comprehensive Planning District.
- (3) Compatibility with Santa Fe Railroad, as a significant noise generator, should be addressed in the Comprehensive Plan for this Comprehensive Planning District.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by the easterly extension of the Yosemite sanitary sewer trunk along Yosemite Boulevard from Claus Road adjacent to the West, to the Town of Empire.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 3,100 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of 1,000 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: KIERNAN/CARVER CPD,
PAGE III-52**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Adequate buffering should be provided between the Business Park uses and residential use to the south and east.
- (2) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of ~~3,300~~ 3700 dwelling units.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by an extension of the North Sanitary Sewer Trunk.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~23,100~~ 18,000 employees was assumed for this Comprehensive Planning District.
- b. A total of ~~3,300~~ 3,700 dwelling units was assumed for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: KIERNAN/CARVER NORTH CPD,
PAGE III-56**

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 2,300 dwelling units.
- (2) The regional commercial uses should be located along the west side of McHenry Avenue to join the established commercial uses along McHenry Avenue.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by an extension of the North Trunk from Dale Road easterly through the Kiernan/Carver Comprehensive Planning District.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 2,300 dwelling units were assumed for this Comprehensive Planning District.
- b. A total of ~~600~~ 860 employees was assumed for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: KIERNAN/MCHENRY CPD,
PAGE III-60**

Because this Comprehensive Planning District does not propose any residential uses, the Housing Policies presented in Chapter IV do not apply to this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by the North Sanitary Sewer Trunk after it is extended easterly through the Kiernan/Carver Comprehensive Planning District.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of ~~15,000~~ 11,650 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundary between the Business Park and Regional Commercial uses will be determined by the Comprehensive Plan.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: NORTH BEYER CPD,
PAGE III-63**

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 1,200 dwelling units.
- (2) Neighborhood Shopping Center(s) developed within the Mixed Use areas shall be consistent with the City's Neighborhood Shopping Center Policy.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system.

6. Focused EIR:

General Plan Policy III(D)(1)(g) specifically exempts the North Beyer CPD from the requirement to prepare a Focused EIR. CEQA review for the Comprehensive Plan for the North Beyer Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 1,200 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of 780 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: PARADISE/CARPENTER CPD,
PAGE III-66**

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District is already served by the West Sanitary Sewer Trunk.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 4,100 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~600~~ 1,540 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundaries of this Comprehensive Planning District will be determined by the Comprehensive Plan.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: PELANDALE/MCHENRY CPD,
PAGE III-69**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 400 dwelling units.
- (2) The uses in this Comprehensive Planning District should support the future use of light rail along the Union Pacific tracks.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by the North Sanitary Sewer Trunk extension after it passes through these Comprehensive Planning Districts to the west: Kiernan/Carver, Kiernan/McHenry.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 400 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~600~~ 720 employees was assumed for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: PELANDALE/SNYDER CPD,
PAGE III-73**

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District can be served one of two ways: a subtrunk from the North Trunk near Dale Road or extension of the adjacent North Trunk sanitary sewer to serve the Kiernan/Carver Comprehensive Planning District as well as this Comprehensive Planning District.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 2,800 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of 930 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: ROSELLE/CLARIBEL CPD,
PAGE III-77**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 7,300 dwelling units.
- (2) Adequate buffering shall be provided between the residential uses and the business park uses in this Comprehensive Planning District.
- (3) Special consideration shall be given in the design of this Comprehensive Planning District and the following edges: the high school site proposed by Village One; the Santa Fe Railroad; and the southern edge of the Riverbank General Plan/Sphere of Influence boundary.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District can be readily served by extensions of the Roselle and Lakewood Sanitary Sewer Trunks that are adjacent in the Village One Comprehensive Planning District.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 7,300 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~10,200~~ 8,550 employees was assumed for this Comprehensive Planning District.

Exhibit III-20

SALIDA

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This ~~1,450-~~ 4,472- acre Comprehensive Planning District is intended to precisely match the land uses adopted by Stanislaus County for the Salida Community Plan. Whether this Comprehensive Planning District completes development in the County, or annexes to the City and completes development, the proposed land uses are the same.

On August 29, 2000 the Stanislaus County Board of Supervisors adopted a General Plan update for the Salida Community Plan. The updated Community plan will be implemented through subsequent Specific Plans, rezones and General Plan amendments through Stanislaus County.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types:

The land uses proposed for this Comprehensive Planning District are exactly the Land Use Designations adopted in the Stanislaus County General Plan for the Salida Community Plan as of ~~January 1, 1995~~ August 29, 2000 as follows:

Low Density Residential (LDR) (as defined in the Stanislaus County General Plan as of ~~January 1, 1995~~ August 29, 2000)

"Intent. The intent of this designation is to provide appropriate locations and adequate areas for single-family detached homes, in either conventional or clustered configurations. Single-family detached dwellings are the predominant housing type in areas so designated, and would remain so under this designation. Semi-detached dwellings and manufactured housing would be consistent with this designation.

Zoning. R-A (Rural Residential) and R-1 (Single-Family Residential) zones are appropriate within this designation. PD (Planned Development) zoning may also be appropriate provided the development does not exceed the established building intensity of this designation. The use of the US (Urban Service) combining district in conjunction with any of the above zones would be appropriate for areas adjacent to unincorporated towns so that annexation to

and service from the adjoining sanitary sewer district or community services district is required prior to development. Residential building intensity when served by a community services district or sanitary sewer district and public water district is zero to eight units per net acre. Building intensity for areas not served by public water and sewer service is zero to two units per net acre. Population density ranges from zero to 25 persons per net acre in areas served by public water and sewer and zero to six persons per net acre in other areas. Small second units, as permitted by state law may increase both the building intensity and the population density to a limited degree within this designation.

Appropriate Locations. The Low Density Residential designation is appropriate in established residential areas characterized by single family dwellings. It would also be appropriate in areas: (a) designated by the Board of Supervisors for ranchettes of 1/2 to 1 acre in size if the area is of diminished agricultural importance but capable of supporting rural residential development based on the eight factors to be considered in locating "Estate Residential" land; or (b) adjacent to unincorporated towns which can serve the development after annexation to and service by a sanitary district or community services district."

Medium Density Residential (MDR) (as defined in the Stanislaus County General Plan as of ~~January 1, 1995~~ August 29, 2000)

"Intent. The intent of this designation is to provide appropriate locations for single and multiple family units, primarily in semi-detached or clustered arrangements. Typical housing types would be single family detached manufactured houses, duplexes, triplexes and low-mass multi-family units (townhouses and garden apartments). All lands within this designation shall be within the boundaries of a community services district, sanitary district or similar public district which provides urban services except where such designation existed at the time of adoption of this plan.

Zoning. The R-2 (Duplex Residential) zone is appropriate within this designation. PD (Planned Development) zoning may also be appropriate provided the development does not exceed the established building intensity of this designation. PD zoning which allows sewage generated on site to be metered into the disposal system during non-peak hours are encouraged in communities with limited system capacity. Residential buildings intensity varies from zero to 14 units per net acre. Population density ranges from zero to 45 persons per net acre.

Appropriate Locations. The Medium Density Residential designation would be appropriate in areas adjacent to unincorporated towns where the Board of Supervisors has determined, pursuant to a community plan, that medium density residential use is needed. These areas will be developed only after annexation to and service by a sanitary district or community services district."

Medium High Density Residential (MHDR) (as defined in the Stanislaus County General Plan as of ~~January 1, 1995~~ August 29, 2000)

"Intent. The intent of this designation is to provide appropriate locations for housing types including duplexes, triplexes, fourplexes, and apartment buildings. This designation shall be within the boundaries of a community services district, sanitary district or similar public district which provides urban services.

Zoning. The R-3 (Multiple-Family Residential) zone is appropriate within this designation. PD (Planned Development) zoning may also be appropriate provided the development does not exceed the established building intensity of this designation. PD zoning which allows sewage generated on site to be metered into the disposal system during non-peak hours is encouraged in communities with limited system capacity. Residential building intensity varies from zero to 25 units per net acre. Population density ranges from zero to 85 persons per net acre.

Appropriate Locations. The Medium High Density Residential designation is appropriate in established residential areas characterized by duplexes, triplexes, fourplexes, and apartment buildings. It would also be appropriate in areas adjacent to unincorporated towns where the Board of Supervisors has determined, pursuant to a community plan, that medium high density residential use is needed. These areas will be developed only after annexation to and served by a sanitary district or community services district."

Commercial (C) (as defined in the Stanislaus County General Plan as of ~~January 1, 1995~~
August 29, 2000)

"Intent. The intent of this designation is to indicate areas best suited for various forms of light or heavy commercial uses, including, but not limited to, retail, service and wholesaling operations. The County has one designation to correspond to the various commercial zoning districts. This designation is intended for lands which demonstrate a valid supportive relationship to other existing or projected urban development.

Zoning. C-1 (Neighborhood Commercial), C-2 (General Commercial), and H-1 (Highway Frontage Commercial) zones shall be considered consistent with this designation. PD (Planned Development) zoning may also be appropriate provided the development does not exceed the established building intensity of this designation. The building intensity shall be determined by Zoning Ordinance development standards for setback, landscaping, height, parking and other requirements except that residential building intensity shall not exceed 25 units per net acre. In no case shall buildings exceed 75 feet in height nor shall they cover so much of the lot that insufficient area remains for parking, landscaping, etc. In commercial zones which allow dwelling units, population density can range from zero to 85 persons per net acre.

Appropriate Locations. The Commercial designation is appropriate in areas already committed to commercial use. In unincorporated towns this designation is appropriate for Central Business Districts and other areas within the sanitary

sewer or community services district in sufficient amount to serve the needs of the community. Areas adjacent to community services district may also be appropriate if the US (Urban Service) combining zone is utilized."

Industrial (as defined in the Stanislaus County General Plan as of January 1, 1995)

~~"Intent. The intent of this designation is to indicate areas for various forms of light or heavy industrial uses, including, but not limited to, manufacturing and warehousing. Generally, the Industrial designation shall be used in areas where public sewer and water is available or where the restrictions of the Planned Industrial designation is inappropriate. The Planned Industrial designation shall be used instead of the Industrial designation unless (a) the property to be designated is intended for a single use applicant not permitted in the Planned Industrial designation and needing a very large site (see discussion under DESIGNATING NEW INDUSTRIAL AREAS (Page 38) or, (b) the property is adjacent to an existing industrial area which is reaching capacity and whose services can be extended to serve the expansion.~~

~~**Zoning.** The LM (Limited Industrial), M (Industrial), and PI (Planned Industrial) zones shall be consistent with this designation. PD (Planned Development) zoning may also be appropriate provided the development does not exceed the established building intensity of this designation. Building intensity is governed by the fact that the Zoning Ordinance prohibits more than 75% coverage of the property by buildings. Buildings for human occupancy shall not exceed 75 feet in height. Population density is almost nonexistent as only one residential unit per parcel is allowed and then only if it is secondary to the industrial use of the property.~~

~~**Existing Locations.** Nearly all existing industrial areas are within or adjacent to the sphere of influence of a City or special district which serves an unincorporated town. Only one...west of McHenry (see Salida Community Plan in Stanislaus County's General Plan for complete text).~~

~~**Designating New Industrial Areas.** The amount of land designated as Industrial in the County has changed very little in the past 10 years, decreasing slightly during a five year period from 1979 to 1984 by about 6.9%. Most of this decrease has been through annexation to cities. Although a great deal of land is still available for industrial development, more than 70% is located in the Beard Tract.~~

~~The criteria listed below shall be used in evaluating potential areas, both for general Industrial designation and for designating sites for industries that need very large sites. There are few industries with the need for extremely large parcels but they do exist. It is not practical to designate a large industrial area because a large amount of land might lay idle for an extended period of time. If an industry requiring a large site approaches the County or if more industrial~~

~~sites are needed, the following criteria shall be used in determining whether or not a site is suitable for being designated Industrial:~~

- ~~a. Access. The proposed site should have adequate access to handle the type and quantity of traffic associated with industrial uses without impacting existing facilities. This shall usually mean that the area will be located on a major road at a minimum, with location on a state highway preferred.~~
- ~~b. Sewage disposal. Public sanitary sewer service should be available and a written commitment for service received. (Lands suitable for industrial development but without public sanitary sewer service should more appropriately be designated Planned Industrial.)~~
- ~~c. Water. An adequate supply of potable water should be available for industrial usage including water needed for fire suppression. Generally this will require a public water supply in order to meet fire flow standards.~~
- ~~d. Infrastructure. Other utilities (such as natural gas, electricity) shall be reasonably available to the site as might be required by the proposed uses.~~
- ~~e. Topography. The site is physically suitable for industrial development.~~
- ~~f. Williamson Act and other constraints to development. The site should be free from constraints such as valid Williamson Act Contracts that would inhibit rezoning and development of the area.~~
- ~~g. Conflicts. The proposed site development shall not cause land use conflicts with surrounding properties. From this viewpoint, expansion of existing areas is more desirable than designating totally new areas.~~
- ~~h. City General Plan Land Use Designation. Any new areas proposed for industrial designation shall not be inconsistent with the General Plan of any City in whose Sphere of Influence they lie."~~

Planned Industrial (PI) (as defined in the Stanislaus County General Plan as of ~~January 1 1995~~ August 29, 2000)

"**Intent.** The intent of this designation is to provide locations for light industrial development. Such locations may be so designated on the initiative of the county or may be requested by a property owner or group of property owners. The Planned Industrial designation shall be preferred to the Industrial designation as it allows more control of development to ensure that impacts on adjoining properties are reduced. It shall be used largely in areas without public sewer and/or water service but shall only be used if it is practical, both physically and financially to ~~prove~~ provide sewage disposal and water service as needed by the proposed development.

Zoning. Building intensity will be determined by the County on an individual basis, depending upon the nature and location of the proposed planned development. However, no buildings shall cumulatively occupy more than 70% of the area of any parcel. Population density is almost nonexistent as only one residential unit per parcel is allowed if it is secondary to the industrial use of the property. The A-2 (Exclusive Agriculture), PI (Planned Industrial), PD (25), PD (30), PD (43), PD (77), PD (88) and PD (126) zones shall be consistent with this designation.

Annexation. Areas designated Planned Industrial on the General Plan and rezoned for development which are located within the adopted Sphere of Influence of a city shall include the requirement that an agreement be signed in a form satisfactory to the City Attorney of the affected city and Stanislaus County Counsel guaranteeing that the property on which the planned industrial designation is applicable will be annexed to the affected city upon demand by the city and with the approval of the Stanislaus County Board of Supervisors.

Appropriate Locations. Appropriate locations for the Planned Industrial designation shall be based on the same criteria as used for designating new Industrial areas. The Planned Industrial designation shall be more appropriate than Industrial in locations with limited or no sanitary sewer capacity or in other locations where restricting the permitted uses is desirable. Based on these criteria, the following ~~two~~ areas *of the Salida Plan* have been designated Planned Industrial.

- a. ~~282 acres on the east side of Highway 99 between the Hammett Road and Pelandale Avenue interchanges~~ The area generally bounded by Sisk Road, MID Lateral No. 6, Dale Road and Ladd Road, and
- b. ~~183.31 acres on the south side of Kiernan Avenue, west of McHenry Avenue.~~ the area east and west of Highway 99 and north of the Hammett Road interchange, and
- c. the east side of Pirrone Road generally between Hammett Road and Kiernan Road.

~~**Planned Development** (as defined in the Stanislaus County General Plan as of January 1, 1995)~~

~~"Intent. The Planned Development designation is intended for land which, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effects on other property.~~

~~**Zoning.** Land within a Planned Development designation should be zoned A-2 (Exclusive Agriculture) until development occurs through Planned Development zoning. A PD (Planned Development) zone (which, with the A-2 zone, are the only zoning districts consistent with this designation) is applied through application and submission of specific development plans. Building intensity and~~

~~population density would be determined by the County on an individual basis, depending upon the nature and location of the proposed planned development.~~

~~**Appropriate Locations.** The Zoning Ordinance indicates that all applications for planned development should be consistent with the General Plan. The following are considered to be valid uses of the planned development designation consistent with the intent of this element.~~

- ~~a. Application for uses of unique character (not otherwise allowed as proposed in other zoning districts) for which findings can be made as to the appropriateness of the location and the absence of detrimental effect to the surrounding area.~~
- ~~b. Applications falling within an area designated by this element as a Planned Development area, subject to those resolutions within the appendix of this element that define special policy for planned development uses in the following area:
 - ~~(1)...(see Salida Community Plan for text)~~
 - ~~(2)...~~
 - ~~(3)..."~~~~

~~Highway Commercial Planned Development (as defined in the Stanislaus County General Plan as of January 1, 1995)~~

~~"Intent. This designation is intended for land located at freeway interchanges where it is necessary to provide services to highway travelers.~~

~~**Zoning.** Land within this designation shall be zoned for Exclusive Agriculture (A-2) until rezoned to Planned Development (PD). Population density and building intensity will be will be determined on a case-by-case basis.~~

~~Uses within this designation shall be limited to the following as principal uses:~~

~~Truck Stops
Restaurants
Motels
Service Stations
Overnight R.V. Camping
Fruit Stands~~

~~The following uses may be permitted, but only when accessory to use uses listed above:~~

~~Towing Service
Minor Emergency Automobile Repair
Convenience Market
Wine Tasting~~

~~Appropriate Locations. The Highway Commercial Planned Development designation is appropriate only for parcels adjacent to a freeway interchanges. No property shall be designated Highway Commercial Planned Development and rezoned PD unless findings are made that the change will not be detrimental to the agricultural value of the surrounding property and that the subject property is of diminished agricultural importance."~~

Neighborhood Parks (as defined in the Stanislaus County General Plan as of August 29, 2000)

Parks and vacant land acreage is based on a calculation need of 3 acres/1,000 residents projected in the Community Plan. Vacant parkland is representative of the community Plan "Proposed "Parks" symbol which denotes general location.

Elementary Schools (as defined in the Stanislaus County General Plan as of August 29, 2000)

Vacant land inventory for schools includes the planned middle school to be constructed at the northwest corner of Kiernan Avenue and Toomes road, and for three additional elementary schools that will be needed.

Middle Schools: *A total of 40 acres will be provided for Middle School sites.*

Private School: *Modesto Christian School, total of 40 acres.*

b. Distribution of Land Uses Within the CPD:

The distribution of the above land uses in this Comprehensive Planning District shall be as presented in the Stanislaus County General Plan for the Salida Community Plan as of ~~January 1, 1995~~ August 29, 2000, as shown in Figure III.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

None.

c. Housing Policy Implementation:

Any County Housing Policies applicable to the Salida Community Plan, prior to the adoption of the Comprehensive Plan, shall be incorporated into the Comprehensive Plan.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District is currently served by the Salida Sanitary Sewer District.

6. Focused EIR:

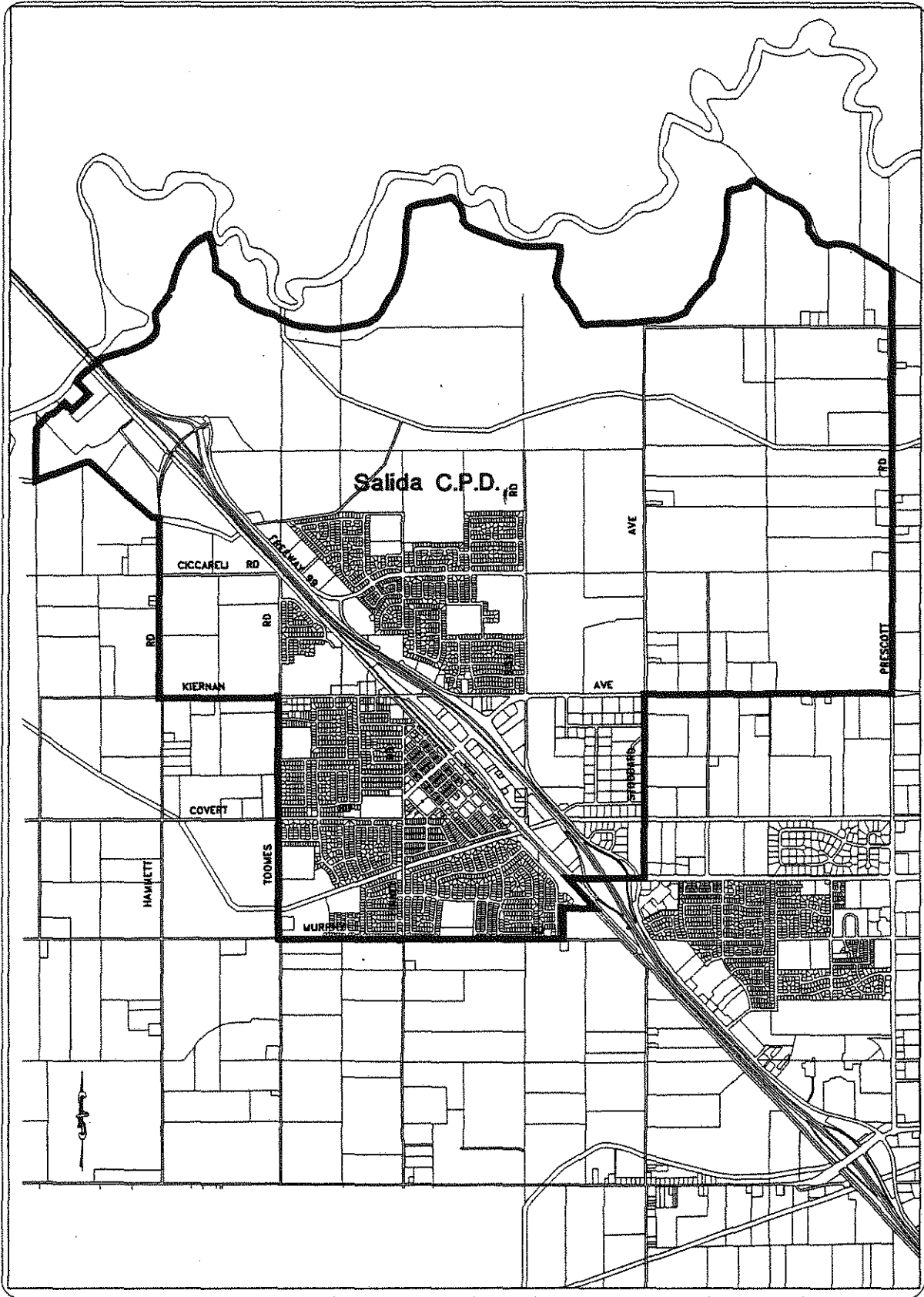
The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. The Final Master EIR Update for the Urban Area General Plan traffic model includes assumptions on the build out of the Salida Community Plan area which included:
b. A total of 7,300 dwelling units was assumed for this Comprehensive Planning District
c. A total of 35,780 employees was assumed for this Comprehensive Planning District

7. Special Considerations Unique to this Comprehensive Planning District:

The August 29, 2000 Salida Community Plan provides sufficient guidance for future land use. All development shall comply with the Salida Community Character and Design Guidelines adopted August 29, 2000. A Mello-Roos Community Facilities District was adopted in 1988, covering much of the property in the Salida Community Plan.

SALIDA C.P.D.










PROPOSED AMENDMENT TO GENERAL PLAN MAP:
SALIDA CPD, PAGE III-89







Salida

Community Plan




Land Use Designations

-  Agriculture
-  Low Density Residential (0-7 du/1 acre)
-  Medium Density Residential (8-14 du/1 acre)
-  Medium-High Density Residential (15-22 du/1 acre)
-  Commercial
-  Highway Commercial
-  Planned Industrial





Parks and Schools

- | | Existing | Proposed* |
|-------------------|---|---|
| Neighborhood Park |  |  |
| Elementary School |  |  |
| Middle School |  |  |
- * Symbol denotes general location.
* High School Site to be located west of State Route 99

Circulation Classification

-  Highway / Freeway
-  Major Road
-  Collector

Relevant Boundaries

-  Salida Community Plan Boundary
-  City of Modesto Sphere of Influence
-  Modesto City Limit
-  Stanislaus County Line



0 100 200
SOURCE: Stanislaus County

ARM DESIGN GROUP
1000 North Main Street, Suite 100, Modesto, CA 95201
Tel: 209.528.1111 Fax: 209.528.1112
www.armdesigngroup.com
August 29, 2002

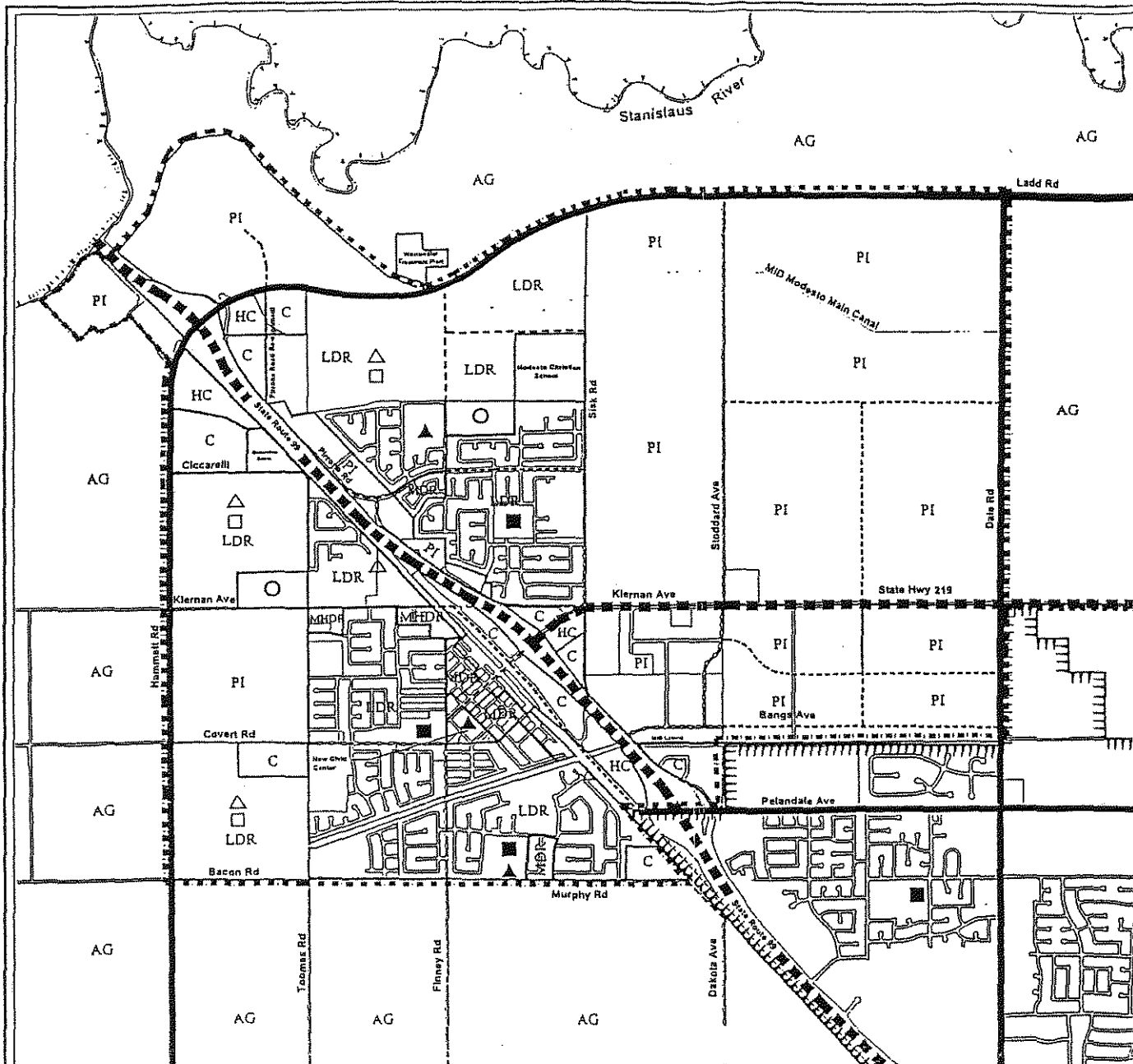


Exhibit III-22

STODDARD

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This 1,200-acre Comprehensive Planning District proposes a mixed-use pedestrian-oriented "Village" south of the Stanislaus River park, and a business park along Stoddard Road.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- 820 acres designated "Village Residential"
- 380 acres designated "Business Park"

b. Distribution of Land Uses Within the CPD:

The Support Commercial uses in the Village Residential portion of this Comprehensive Planning District should be sited to facilitate pedestrian access from the residential development.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))
- (2) Neotraditional Planning Principles (Section III-C(3))

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: STODDARD CPD,
PAGE III-94 – THIS PAGE PROPOSED FOR DELETION**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 2,700 dwelling units.
- (2) Adequate buffering should be provided between the proposed Business Park and the proposed Village Residential uses.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District can be served by a westerly extension of the North Sanitary Sewer Trunk. However, downstream capacity in the system cannot accommodate the Highway 99 Comprehensive Planning District and Stoddard Comprehensive Planning District and the planned easterly extension to serve the City's north end. At some point, the westerly leg of the North Trunk will have to be served by the West No. 2 Trunk and a force main and trunk to the primary treatment plant.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 2,700 dwelling units was assumed for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: STODDARD CPD,
PAGE III-95 – THIS PAGE PROPOSED FOR DELETION**

b. A total of 13,700 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundaries of this Comprehensive Planning District will be determined by the Comprehensive Plan.

STODDARD C.P.D.

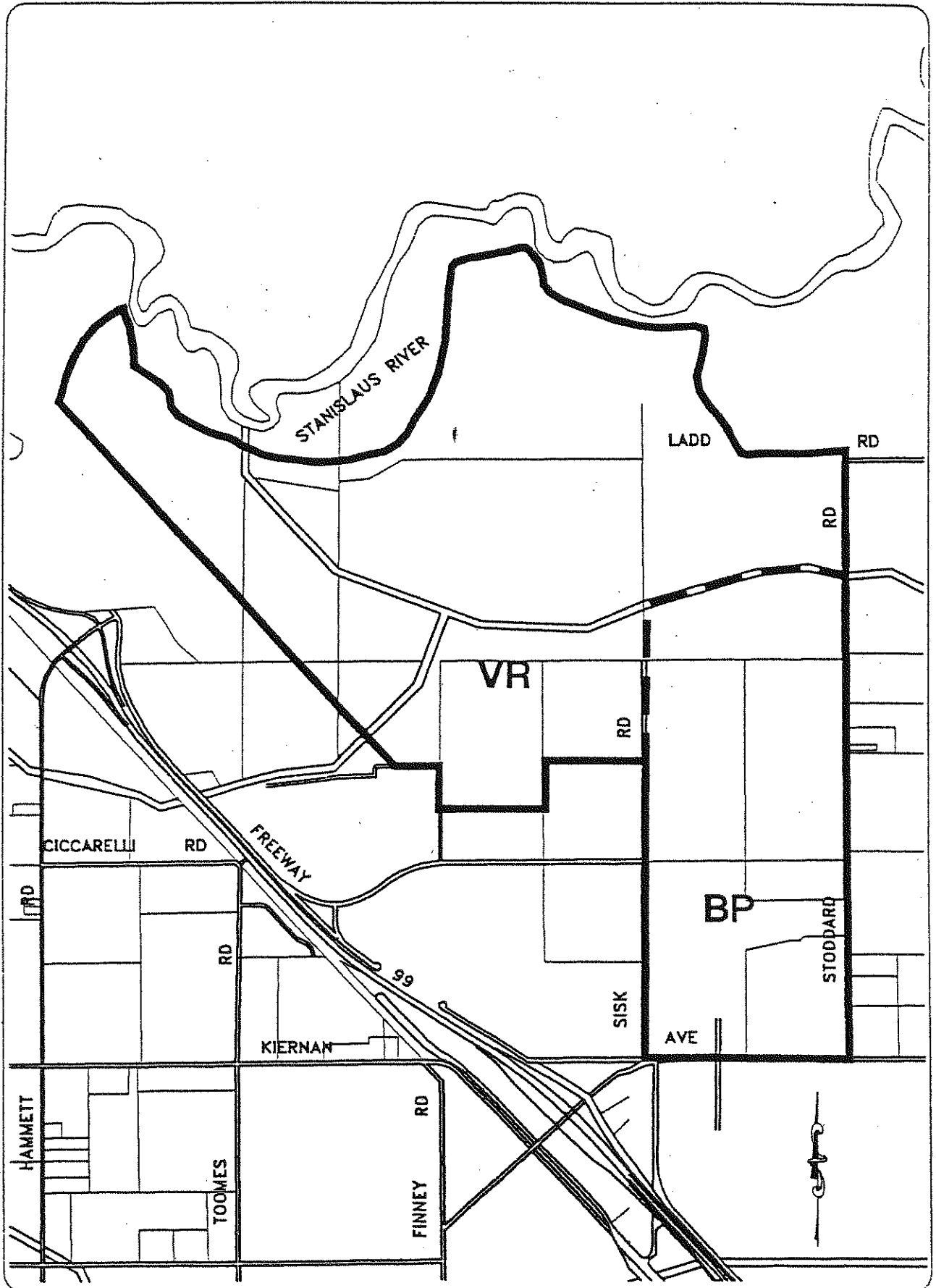


Exhibit III-23

STODDARD/DALE

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This 1,180-acre Comprehensive Planning District proposes a mixed-use pedestrian-oriented "Village" south of the Stanislaus River park, and a business park along Kiernan Avenue.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- 860 acres designated "Village Residential"
- 320 acres designated "Business Park"

b. Distribution of Land Uses Within the CPD:

The Support Commercial uses in the Village Residential portion of this Comprehensive Planning District should be sited to facilitate pedestrian access from the residential development.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

- (1) Overall Land Use Policies (Section III-C(1))
- (2) Neotraditional Planning Principles (Section III-C(3))

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: STODDARD/DALE CPD,
PAGE III-98 – THIS PAGE PROPOSED FOR DELETION**

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 3,300 dwelling units.
- (2) Adequate buffering should be provided between the proposed Business Park and the proposed Village Residential uses.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District can be served by a westerly extension of the North Sanitary Sewer Trunk. However, downstream capacity in the system cannot accommodate the Highway 99 Comprehensive Planning District and Stoddard Comprehensive Planning District and the planned easterly extension to serve the City's north end. At some point, the westerly leg of the North Trunk will have to be served by the West No. 2 Trunk and a force main and trunk to the primary treatment plant.

6. Focused EIR:

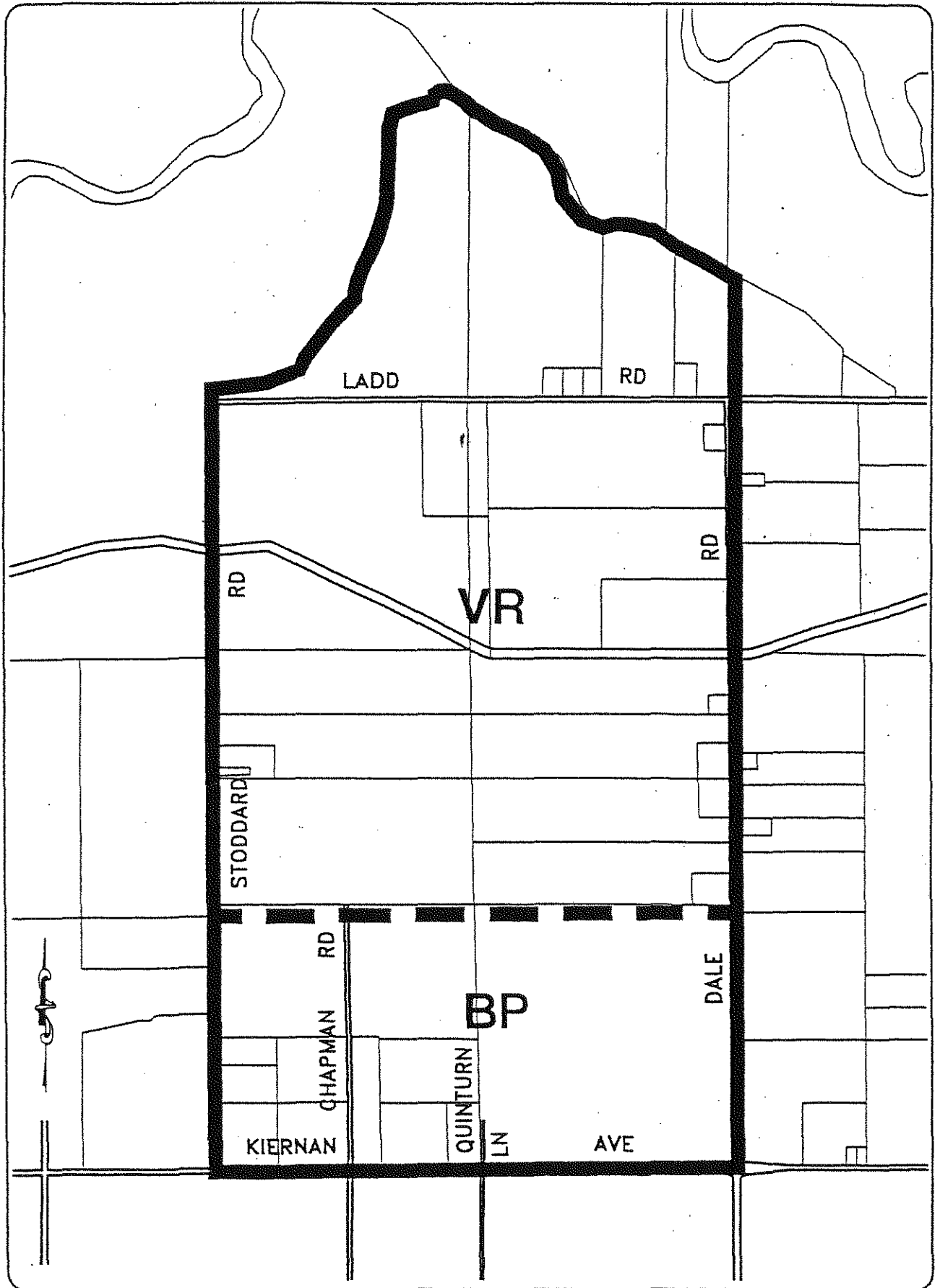
The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 3,300 dwelling units was assumed for this Comprehensive Planning District.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: STODDARD/DALE CPD,
PAGE III-99 – THIS PAGE PROPOSED FOR DELETION**

- b. A total of 11,700 employees was assumed for this Comprehensive Planning District.
7. Special Considerations Unique to this Comprehensive Planning District:
- a. The exact boundaries of this Comprehensive Planning District will be determined by the Comprehensive Plan.

STODDARD/DALE C.P.D.



**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: CARPENTER/WHITMORE CPD,
PAGE III-112**

- (1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 3,500 dwelling units.
- (2) The landfill located in this Comprehensive Planning District presents a significant design constraint. This constraint should be addressed in the Comprehensive Plan.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

- a. This Comprehensive Planning District will be served by a new South No. 2 Sanitary Sewer Trunk over Tuolumne River to the primary treatment plant at the foot of Sutter Street.

6. Focused EIR:

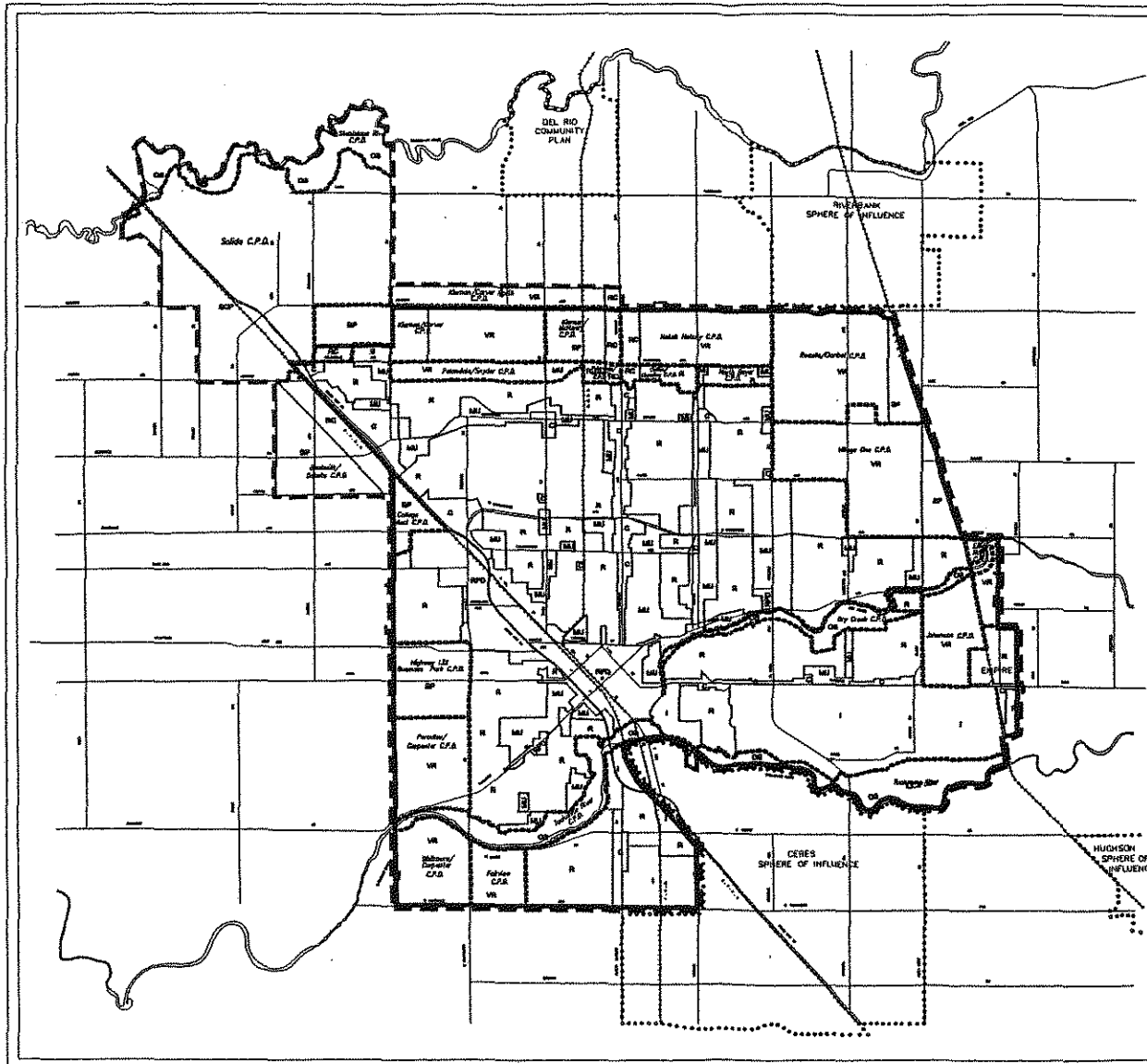
The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

- a. A total of 3,500 dwelling units was assumed for this Comprehensive Planning District.
- b. A total of ~~500~~ 1,200 employees was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

The exact boundary between this Comprehensive Planning District and the Tuolumne River Comprehensive Planning District shall be determined by the Comprehensive Plan.

PROPOSED AMENDMENT TO GENERAL PLAN MAP:
LAND USE DIAGRAM, FIGURE III-1



CITY OF MODESTO
GENERAL PLAN PROGRAM

FIGURE III-1
ADOPTED
LAND USE DIAGRAM

LEGEND

- GENERAL PLAN DESIGNATION**
- R Residential
 - SO Special Use
 - C Commercial
 - I Industrial
 - RPD Redevelopment Planning District
 - VR Village Residential
 - RC Regional Commercial
 - SP Special Park
 - OU Open Space
 - DCP Land Use Designation of the Delta Community Plan
- BOUNDARIES**
- DELTA COMMUNITY PLAN BOUNDARY
 - GENERAL PLAN BOUNDARY
 - SPHERE OF INFLUENCE
- COMMUNITY PLANNING DISTRICT**
- COMMUNITY PLANNING DISTRICT BOUNDARY (See Section 3-4)
- GENERAL PLAN DESIGNATION**
- R Residential
 - C Commercial
 - I Industrial
 - A Agricultural
 - RPD Redevelopment Planning District
 - VR Village Residential
 - RC Regional Commercial
 - SP Special Park
 - OU Open Space
 - DCP Land Use Designation of the Delta Community Plan
- Adopted: 8/15/95
 Repealed: 1/16/98 (CPA2)
 11/26/98 (CPA4)
 1/27/99 (CPA5)
 4/27/99 (CPA7)
 4/15/99 (CPA8)
 11/16/99 (CPA10)
 6/13/00 (CPA11)



Scale: 1" = 1/2 Mile

PROPOSED AMENDMENT TO GENERAL PLAN TEXT: STORM WATER DRAINAGE POLICIES, PAGE V-16

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 implementation 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

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: SCHOOL POLICY,
PAGE V-25**

- (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, pre-zoning, 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.

CIRCULATION AND TRANSPORTATION DIAGRAM

(Sheet 1 of 2)

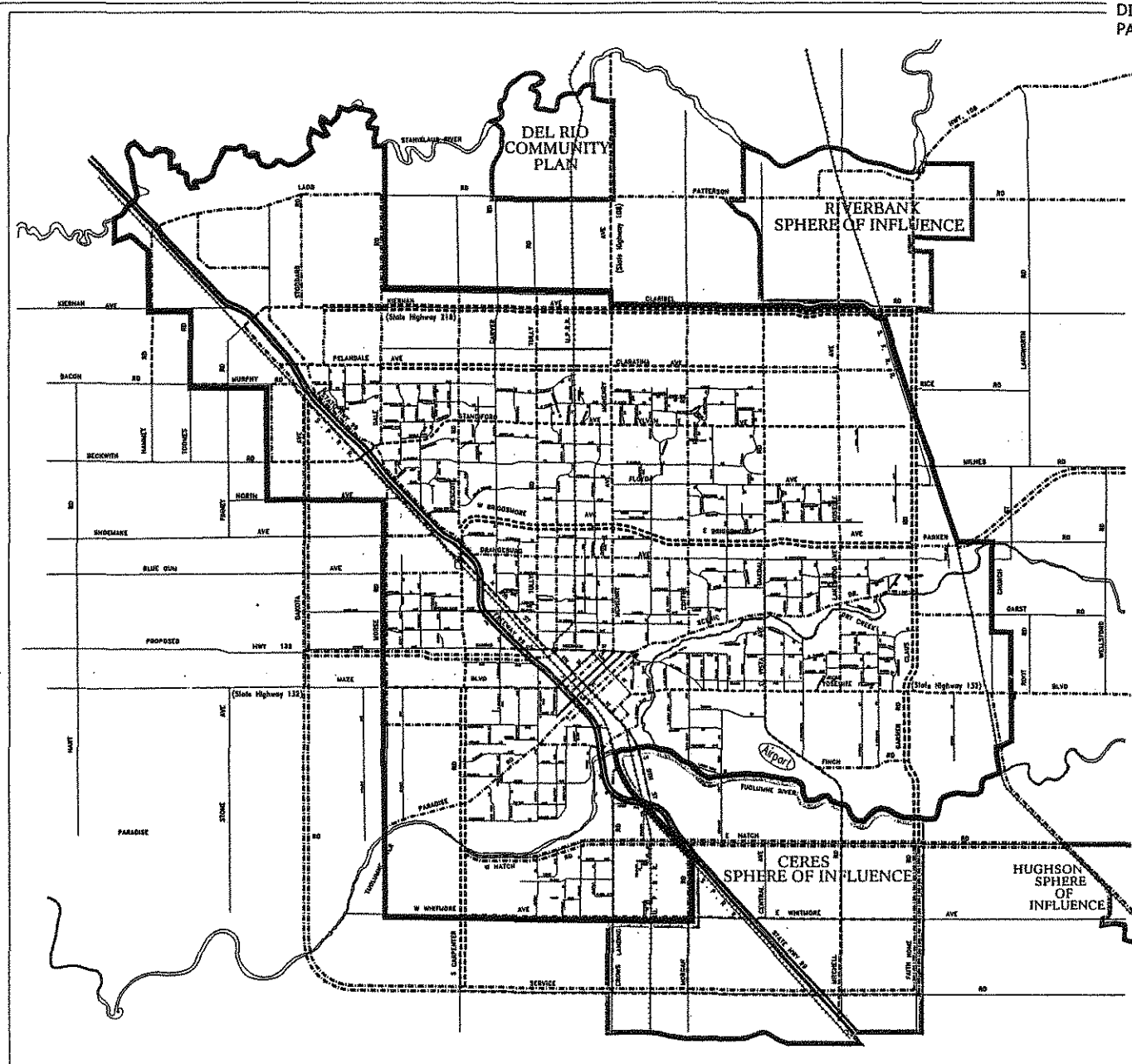
LEGEND FACILITY DESIGNATIONS *

- FREEWAY 99
- EXPRESSWAY
8 Lanes, see sheet 2 for Classifications
- EXPRESSWAY
4 Lanes, see sheet 2 for Classifications
- PRINCIPAL ARTERIAL
6 Lanes
- PRINCIPAL ARTERIAL
4 Lanes
- MINOR ARTERIAL
4 Lanes
- MAJOR COLLECTOR
4 Lanes
- MINOR COLLECTOR
2 Lanes (Shown in developed areas only)
- AIRPORT
- RAILROAD

* Note: Designations shown outside the General Plan Boundary are illustrative only, subject to other jurisdictions.

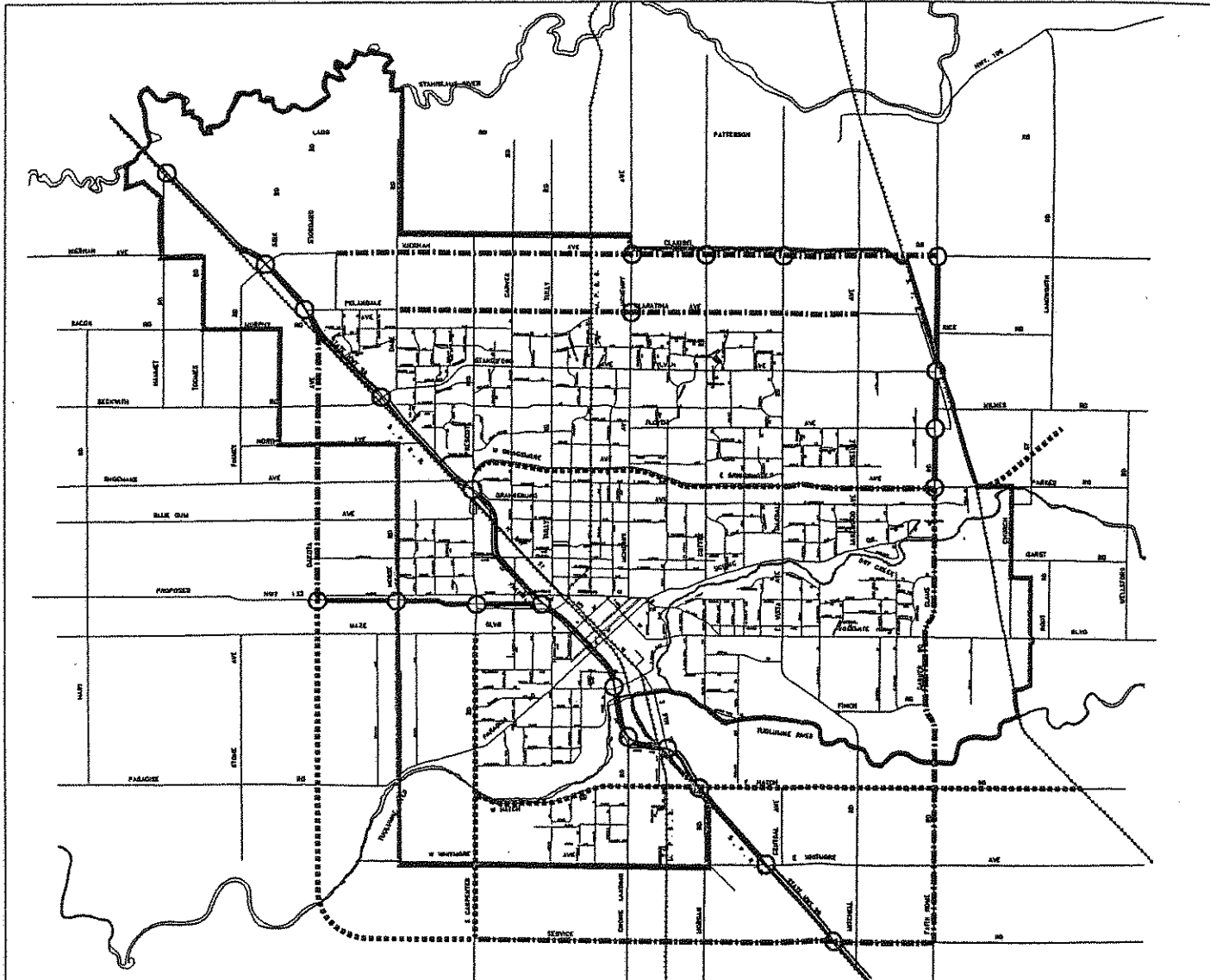
REFERENCE POINTS (for illustration only, not adopted)

- GENERAL PLAN BOUNDARY
- ADJACENT COMMUNITIES BOUNDARY
- RIVERS








PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: CIRCULATION & TRANSPORTATION
 PAGE V-34, FIGURE V-1 (SHEET 2 OF 2)

Figure V-1
 Circulation and Transportation Diagram
 (Sheet 2 of 2)



Legend*

-  Freeway 99
-  Interchanges
-  Class A Expressway
-  Class B Expressway
-  Class C Expressway

*NOTE: Classifications and Interchanges shown outside the General Plan Boundary are illustrative only, subject to other jurisdictions.

Reference Points
 (For illustration only; not adopted)

-  General Plan Boundary



Not to Scale

Source: City of Modesto 2002.

 Jones & Stokes

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: FLOODING HAZARDS,
PAGE VI-4**

c. The results of the Flood Hazard Analysis shall be incorporated into the project design of any Comprehensive Plan.

d. *The Urban Area General Plan Update includes policies to restrict development in the flood plain. Existing policies of the Urban Area General Plan will also restrict the amount of post-development runoff from exceeding pre-development conditions.*

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. Chapter VIII of this General Plan presents a variety of other potential implementation tools.

D. PUBLIC SAFETY - FIRE HAZARDS

Fire protection policies within the City of Modesto are contained in Chapter V. Fire hazards in Modesto are primarily associated with urban fires. Urban fires may be defined as fires which occur in commercial, industrial and residential structures. Most urban fires are caused by human activity, and may result in property damage, injuries, and loss of life.

Over the years, building codes have been established and utilized to reduce the frequency and severity of urban fires. Electrical construction standards have been improved, building separation requirements have been implemented, and fire walls are now required to separate closely sited structures and properties. Buildings which are highly susceptible to fire may also have automatic sprinkler systems installed. Development standards established by the City of Modesto and Stanislaus County zoning codes, including setback and access requirements, also help to minimize urban fire hazards. However, despite these measures, older buildings which do not meet current building codes and/or were constructed prior to the implementation of protective zoning may represent a significant fire hazard.

Peak-load water supply is defined as "the supply of water available to meet both domestic water and fire fighting needs during the particular season and time of day when domestic water demand on a water system is at its peak". Pipeline sizes, pump capacities, and water storage capacity should be adequate to meet the demand for peak-load water supply. The following Policies supplement the Fire Protection Policies contained in Section V-K.

1. Fire Hazard Policies - Baseline Developed Area and Planned Urbanizing Area

a. 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

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: CULTURAL RESOURCES,
PAGE VII-10**

Additional resources exist below the ground. Remnants of razed buildings exist below the surface with related deposits such as trash pits. These sub-surface features are some of the only evidence of past activities, enterprises, and peoples.

2. Policies in the Redevelopment Area and Baseline Developed Area

- a. For all proposed development within an archaeological resource study area (as depicted on Figure 8-1 in the Master Environmental Impact Report), a combination of archival research, particularly through the Central California Information Center at Turlock, and preliminary surface field reconnaissance shall be employed to identify any areas that may have been used by Native Americans. Areas containing prehistoric deposits shall be mapped with evaluation of their significance following only in those areas where proposed development might affect the resources.

Where proposed development could affect the resources, the City shall consult Table 8-1, "*Procedures for Mitigating and Monitoring Impacts to Cultural Resources*", in the Master Environmental Impact Report for the *required* steps to be implemented.

- b. For proposed development outside an identified archaeological resource study area (as depicted on Figure 8-1 in the Master Environmental Impact Report), 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.

**PROPOSED AMENDMENT TO GENERAL PLAN TEXT: CULTURAL RESOURCES,
PAGE VII-11**

- c. The City of Modesto shall implement regulations which identify important historic resources, and establish regulations to preserve the important aspects of those resources. The City could encourage adaptive reuse of listed buildings, including historically sensitive restoration, as a means of preserving eligible structures. Restoration and renovation of buildings should be performed in accordance with the "Secretary of the Interior's Standards for the Treatment of Historic Properties" and the State Historic Building Code. The standards serve as guidelines for rehabilitation, restoration, preservation, retaining, and preserving historic character of a property.
- d. The City shall ensure that zoning provisions for structures of historical significance are sufficiently flexible to ensure that parking or other structures requirements of the Zoning Ordinance allow the historic structures to remain viable in the future.
- e. *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 structure and develops a program to reduce the impacts on an individual basis.*

Projects that follow Secretary of Interior Standards, in consultation with SHPO, can be considered mitigated to a level of less than significant.

- f. 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 CEQA Guidelines.
- g. *The unearthing of prehistoric items during construction can be mitigated by halting the construction activities and by applying mitigation measures developed by a qualified archaeologist.*

Mitigation a.: *Whenever possible, the City should seek to avoid disturbing or damaging archaeological resources. Preservation is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:*

1. *Planning construction to avoid archaeological sites;*
2. *Incorporating sites within parks, greenspace, or other open space;*
3. *Covering the sites with a layer of chemically stable soil;*
4. *Deeding the site into a permanent conservation easement.*

Mitigation b.: *When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering the scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the CCIC in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code sec. 7050.5; Guidelines sec. 15126.4[b]).*

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines sec. 15126.4[b])

- h. When structures or areas of historical significance over 45 years old are proposed for demolition, alteration, or where construction is proposed within 100 feet of that structure, the applicant shall submit data to the City regarding the structure's history or locations 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.
- i. *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.

4. Policies in the Planned Urbanizing Area

- a. Policies for the Planned Urbanizing Area are the same as those presented for the Baseline Developed Area.

G. NOISE

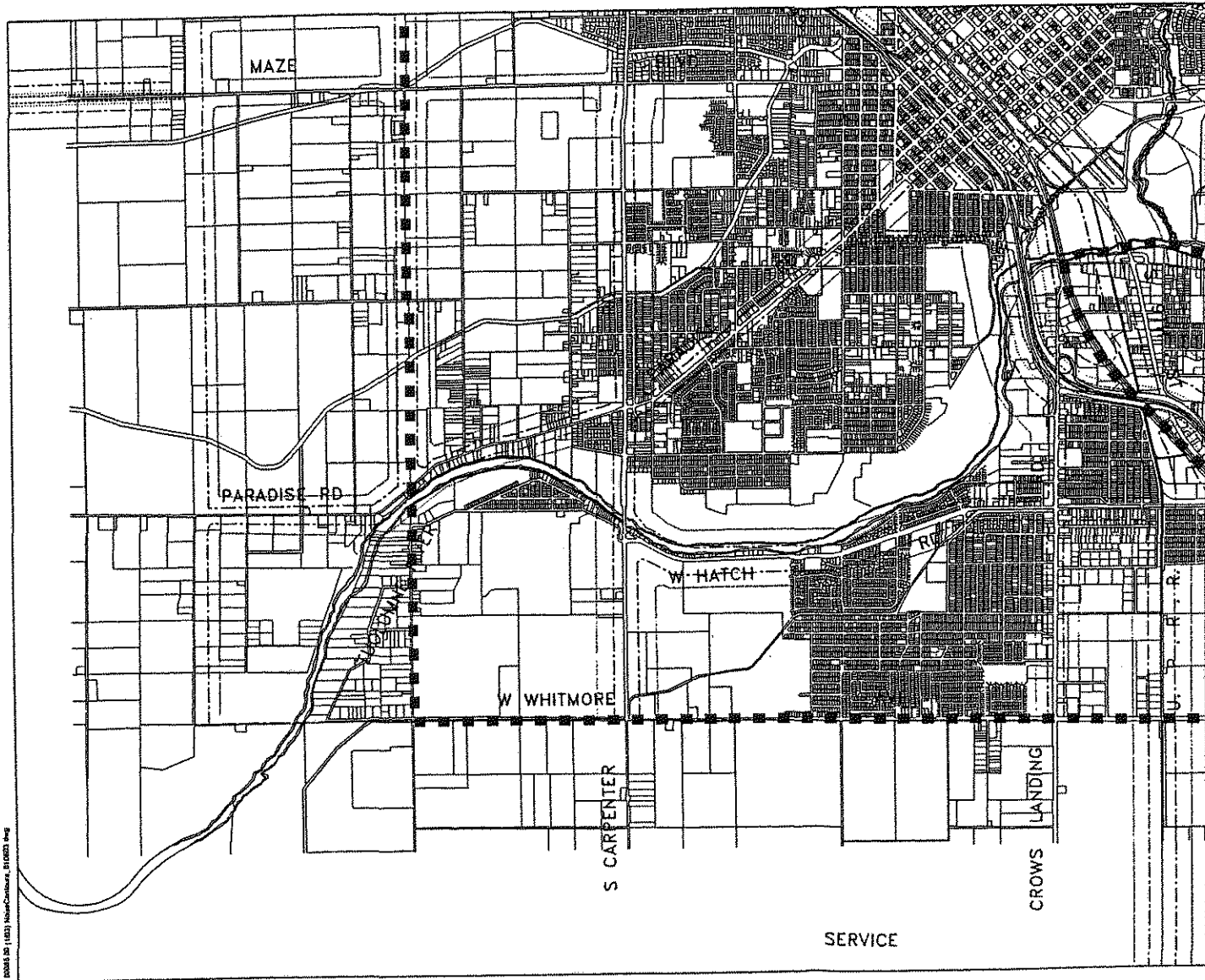
1. Overview

Noise pollution is recognized as a significant source of environmental degradation. In an effort to improve the quality of life in urban areas, California planning law requires every

- (1) Widened right-of-way;
 - (2) Depressed roadway alignments;
 - (3) Earthen berms or earthen/wall combination;
 - (4) Walls;
 - (5) Acoustical retrofitting to affected parties.
- g. In recognition of the conservative methodology used to develop the noise contours shown on Figure VII-1, 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 contours.
- h. The City of Modesto shall limit trucking to specific routes, times and speeds that minimize adverse effects to sensitive land uses such as schools and residential areas.
- i. ~~To address noise impacts related to operation of the Airport, the City shall continue with noise abatement measures related to the airport operations (included in the Airport's approved FAR Part 150 Program) including curfews, ground run-up suppressers, prohibition of operations of some aircraft types at certain hours of the day, land acquisition to prevent development in noise impacted areas, use of appropriate zoning and implementation of sound insulation programs in the aircraft noise impacted area.~~ *Airport and aircraft noise analysis will be conducted in accordance with the Modesto City/County Airport's Master Plan mitigation measure in the approved plan published April 1993 and Federal Aviation Regulation (FAR) Part 150. Upon implementation of regular air carrier scheduled jet service, a new noise contour will be prepared based on the daily flight frequency and type of aircraft proposed for use. New contours will be prepared for subsequent significant increases in daily scheduled jet service. Every five years between commencement of air carrier jet service and the year 2010, the City of Modesto will monitor aircraft noise levels within the airport area of influence and publish a report of the findings.*

PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: NOISE CONTOURS
 PAGE VII-21, FIGURE V-3-2 (SHEET 1 OF 6)

Figure V-3-2
 Noise Contours



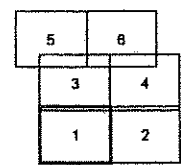
Legend

- 80 LDN
- - - 65 LDN
- 70 LDN
- · - · 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (80 Decibel [LDN], 65 LDN, 75 LDN Noise Contours)

Reference Points

- (For illustration only; not adopted)
- Streets
 - Freeway
 - Railroads
 - ~ Rivers

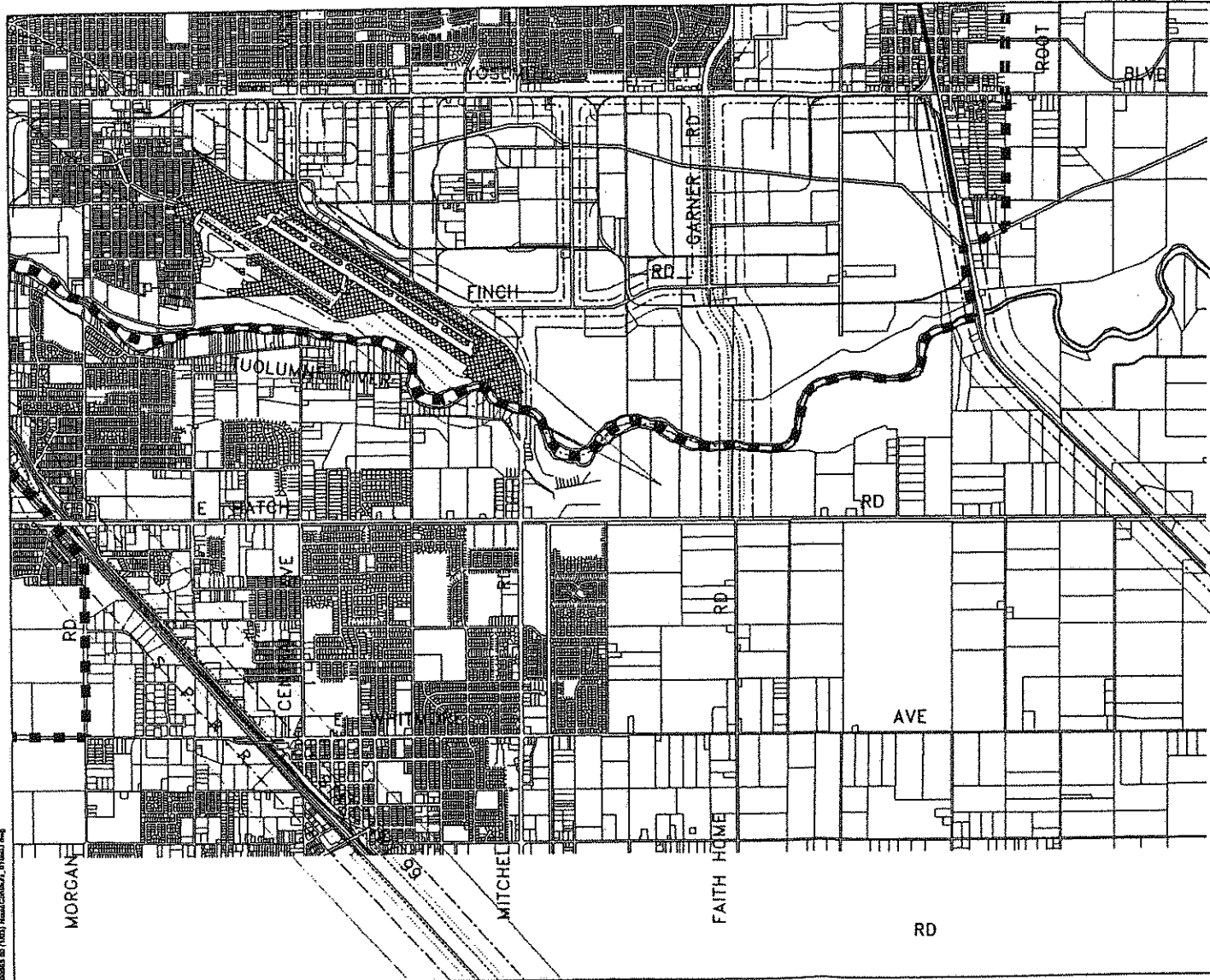


Not to Scale

Source: City of Modesto 2002.



Figure V-3-2
 Noise Contours



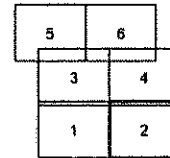
Legend

- 60 LDN
- - - 65 LDN
- 70 LDN
- 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (60 Decibel (LDN), 65 LDN, 75 LDN Noise Contours)

Reference Points
 (For illustration only, not adopted)

- Streets
- Freeway
- Railroads
- ~ Rivers

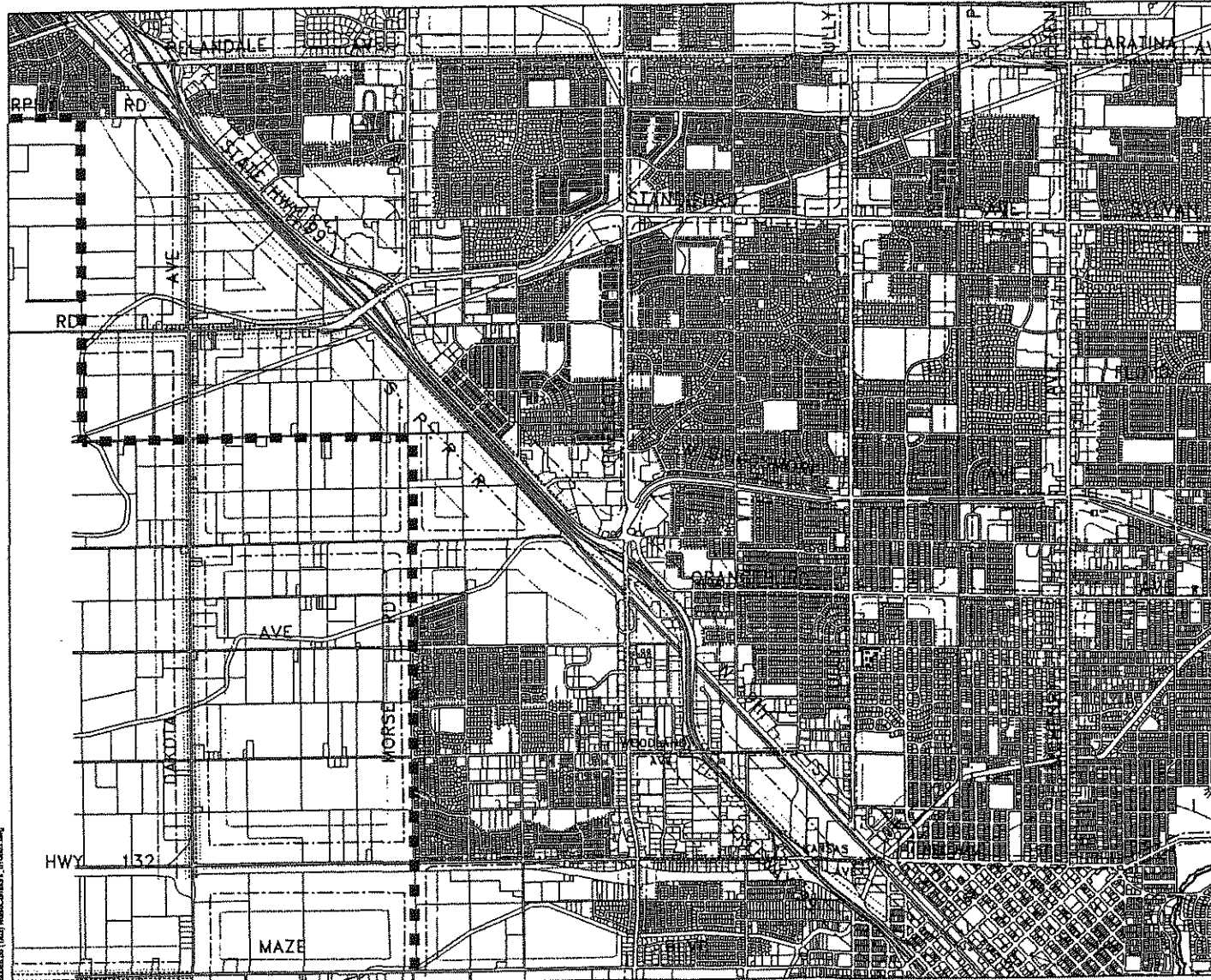


Not to Scale

Source: City of Modesto 2002.

PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: NOISE CONTOURS
 PAGE VII-23, FIGURE V-3-2 (SHEET 3 OF 6)

Figure V-3-2
 Noise Contours



Legend

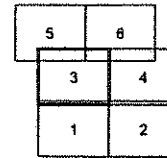
- 80 LDN
- - - 65 LDN
- 70 LDN
- - - 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (80 Decibel [LDN], 65 LDN, 75 LDN Noise Contours)

Reference Points

(For illustration only; not adopted)

- Streets
- Freeway
- Railroads
- ~ Rivers



Not to Scale
 Source: City of Modesto 2002.

JTS Jones & Stokes

PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: NOISE CONTOURS
 PAGE VII-24, FIGURE V-3-2 (SHEET 4 OF 6)

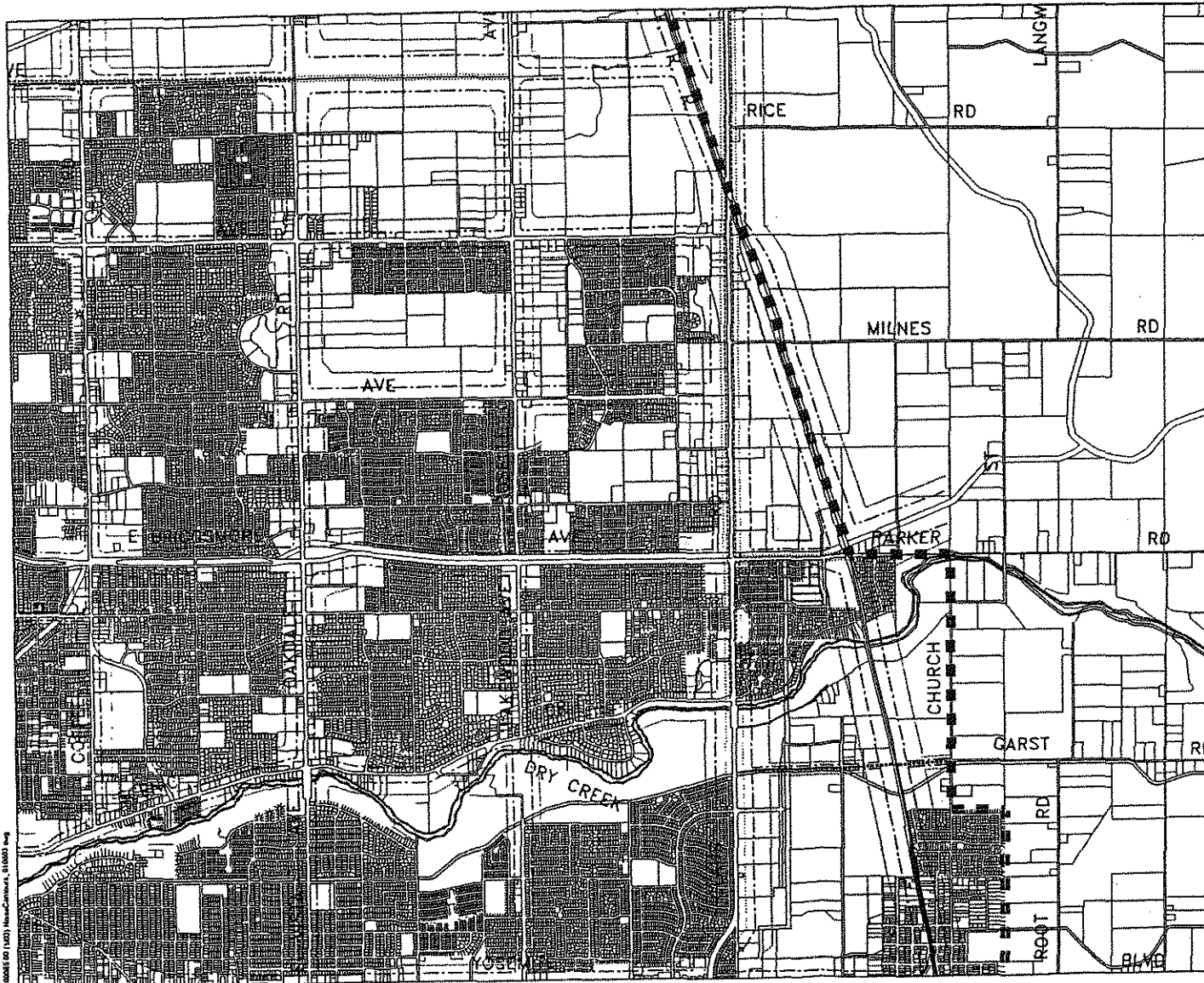


Figure V-3-2
 Noise Contours

Legend

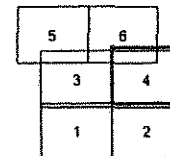
- 60 LDN
- - - 65 LDN
- 70 LDN
- · — 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (80 Decibel (LDN), 65 LDN, 75 LDN Noise Contours)

Reference Points

(For illustration only; not adopted)

- Streets
- Freeway
- Railroads
- ~ Rivers



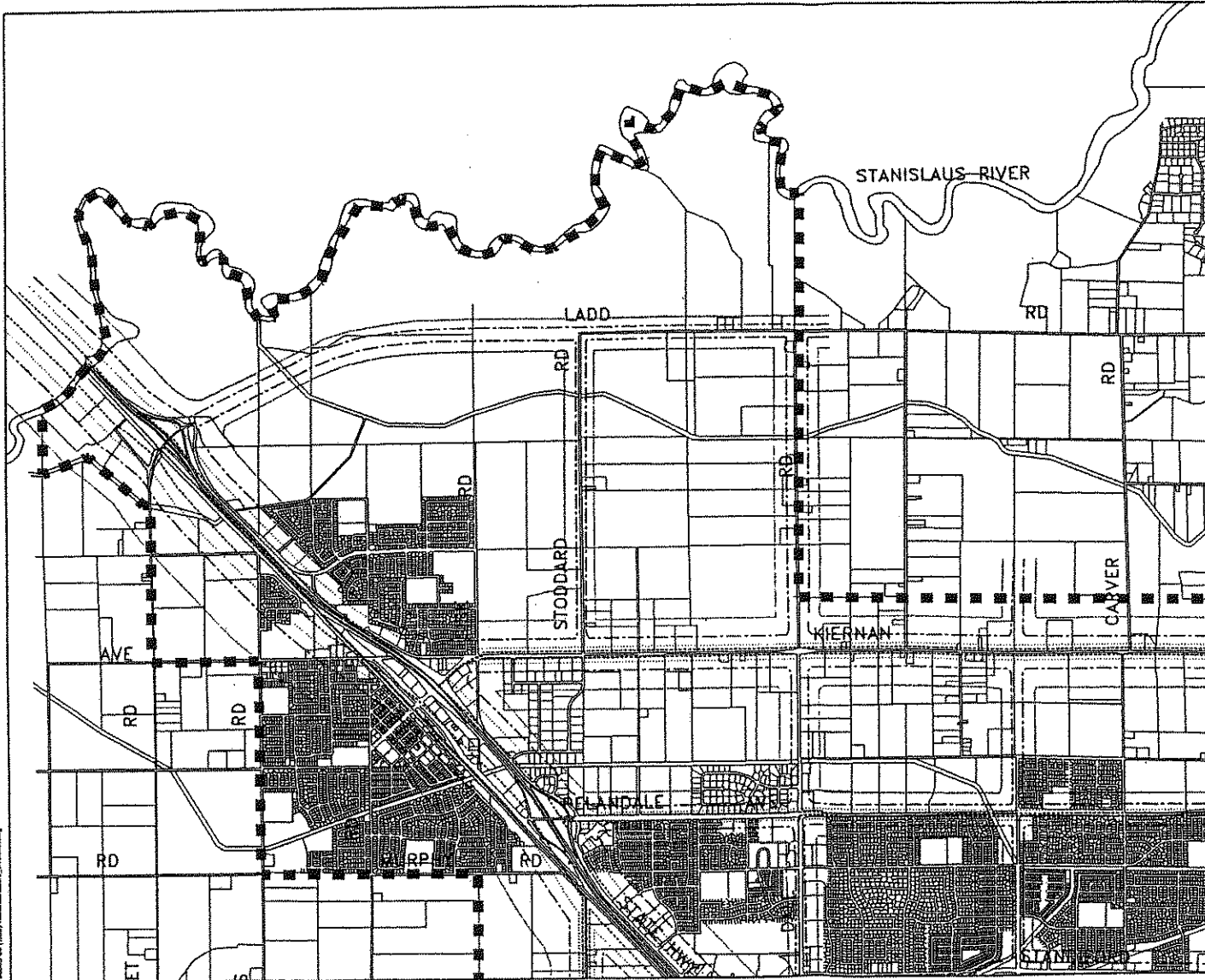
Not to Scale

Source: City of Modesto 2002.



PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: NOISE CONTOURS
 PAGE VII-25, FIGURE V-3-2 (SHEET 5 OF 6)

Figure V-3-2
 Noise Contours



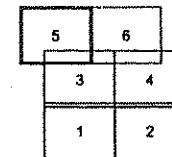
Legend

- 60 LDN
- - - 65 LDN
- 70 LDN
- 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (60 Decibel [LDN], 65 LDN, 75 LDN Noise Contours)

Reference Points
 (For illustration only; not adopted)

- Streets
- Freeway
- Railroads
- ~ Rivers



Not to Scale

Source: City of Modesto 2002.

PROPOSED AMENDMENT TO GENERAL PLAN
 DIAGRAM: NOISE CONTOURS
 PAGE VII-26, FIGURE V-3-2 (SHEET 6 OF 6)

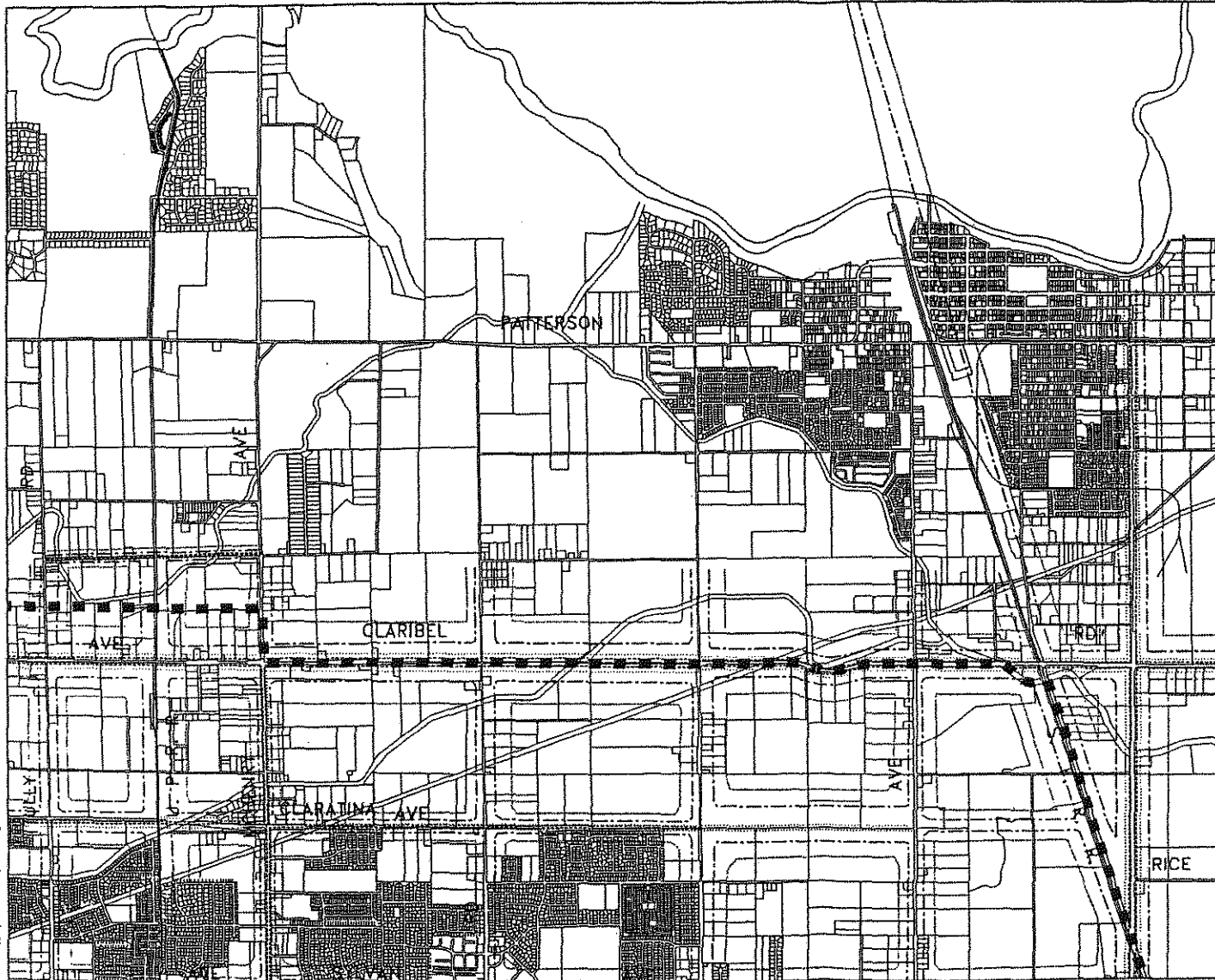


Figure V-3-2
 Noise Contours

Legend

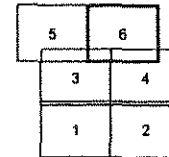
- 60 LDN
- - - 65 LDN
- 70 LDN
- · - · - 75 LDN
- ■ ■ General Plan Boundary

Day Night Average Sound Levels (LDN)
 (60 Decibel [LDN], 65 LDN, 75 LDN Noise Contours)

Reference Points

(For illustration only; not adopted)

- Streets
- Freeway
- Railroads
- ~ Rivers



Not to Scale
 Source: City of Modesto 2002.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-123**

CERTIFYING THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT UPDATE FOR THE MODESTO URBAN AREA GENERAL PLAN (SCH#1999082041), AND ADOPTING STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES, AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING PROGRAM

WHEREAS, on August 15, 1995, the City of Modesto adopted a Modesto Urban Area General Plan, that has been amended from time to time, to guide the growth of the City of Modesto to year 2025 and beyond; and

WHEREAS, prior to adopting the Modesto Urban Area General Plan, and any amendments thereto, the California Environmental Quality Act (CEQA) requires that the City consider the environmental consequences of the proposed project; and

WHEREAS, the preparation of the Master Environmental Impact Report (MEIR) is to provide decision-makers and the public with information concerning the individual and cumulative environmental effects of the project, to indicate possible ways to mitigate, reduce or avoid the environmental impacts, and to identify alternatives to the project; and

WHEREAS, on August 15, 1995, a Final Master Environmental Impact Report (MEIR) on the City of Modesto's General Plan (SCH# 92052017) was certified and appropriate findings adopted prior to the adoption of the 1995 Modesto Urban Area General Plan; and

WHEREAS, periodic updates have been made to the MEIR via additions, deletions and other proposed modifications as part of the adoption of Focused Environmental Impact Reports on: Fairview Village Specific Plan (November 1995),

Empire North Unit No. 1 Specific Plan (November 1996), and the Kiernan Business Park/Carver Bangs Specific Plan (April 1997); and

WHEREAS, the City is proposing an amendment to the General Plan for maintenance purposes, including changes to the Circulation and Transportation map, School Policy text, Archaeological and Cultural resource policies, Airport Noise policy, Employment Estimates, and the Salida Comprehensive Planning District; and

WHEREAS, in conjunction with the environmental review for the proposed General Plan Amendment the staff also proposes a comprehensive update to the MEIR; and

WHEREAS, Notices of Preparation (NOPs) for the proposed Update to the MEIR were circulated for the required 30-day periods, from August 20, 1999 to September 25, 1999, August 6, 2001 to September 9, 2001 and June 12, 2002 to July 15, 2002; and

WHEREAS, pursuant to the California Environmental Quality Act, Public Resources Code Section 21000, et seq., (CEQA) and the CEQA Guidelines, California State Office of Planning and Research, 14 California Code of Regulations 15000, et seq. (CEQA Guidelines), the City prepared an MEIR Update entitled "Draft Master Environmental Impact Report Update for the Urban Area General Plan and Related Amendments to the Urban Area General Plan" (DMEIR) (SCH#1999082041); and

WHEREAS, the DMEIR was released for public review and comment for the required 45-day period beginning on November 25, 2002; and

WHEREAS, the City prepared a Final Master Environmental Impact Report Update (FMEIR), which incorporated all the comments received during the circulation period and the City's responses thereto, and the City distributed copies of the response to comments along with the date, time and location of the scheduled public hearing on

certification of the FMEIR Update, to commenting agencies for the required ten-day period on January 30, 2003;

WHEREAS, the Planning Commission held a public hearing on February 10, 2003, to review and consider the proposed FMEIR Update and recommended the City Council certify the FMEIR Update and adopt the related statement of findings of significant impacts and rejection of alternatives, statement of overriding considerations, and a mitigation monitoring program; and

WHEREAS, the City Council held a public hearing on March 4, 2003, to review and consider the proposed Final MEIR Update and the Statement of Findings of Significant Impacts and Rejection of Alternatives, Statement of Overriding Considerations, and a Mitigation Monitoring Program; and

WHEREAS, the information contained in the proposed FMEIR Update, evidence both oral and documentary, and staff reports for the Project, including information submitted throughout the process recited above, was reviewed and considered by the City Council prior to taking action on the FMEIR Update.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Recitals. The foregoing recitals are true correct and are incorporated herein as findings.
2. Compliance with CEQA. The Final Master Environmental Impact Report Update for the Modesto Urban Area General Plan (SCH# 1999082041) (FMEIR Update) was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). A copy of the FMEIR Update is on file with the City Clerk.

3. The FMEIR Update, reflects the fact that mitigation monitoring, pursuant to Public Resources Code Section 21081.6, for Mitigation Measures from the 1995 MEIR (SCH# 92052017) has been accomplished by incorporation of those mitigation measures directly into the Urban Area General Plan as adopted policies, thereby leaving only mitigation measures required for new additional impacts not previously identified in the 1995 MEIR.

Traffic and Circulation Needs	V-1-1
Degradation of Air Quality	V-2-1
Generation of Noise	V-3-1
Effects on Agricultural Land	V-4-1
Increased Demand for Long Term Water Supplies	V-5-1
Increased Demand for Sanitary Sewer Facilities	V-6-1
Loss of Sensitive Potential Disturbance of Archaeological or Historical Sites Wildlife and Plant Habitat	V-7-1
Increased Demand for Storm Drainage	V-8-1
Flooding & Water Quality	V-9-1
Increased Demand for Parks and Open Space	V-10-1
Increased Demand for Schools	V-11-1
Generation of Hazardous Materials	V-12-1
Growth-Inducing Impact	VI-1

4. FMEIR Update Reviewed and Considered. The City Council certifies that the FMEIR has been completed in compliance with CEQA; that it has been presented to the Council and that the Council has reviewed and considered the information contained in the FMEIR Update, that the FMEIR Update reflects the independent judgement of the Council, and all of the information contained therein has substantially influenced all aspects of the decision by the Council. The FMEIR Update is a material part of this resolution.

5. Findings Regarding Significant Effects. Section 21081(a) of the Public Resources Code requires the City Council to make certain findings regarding the significant effects of the General Plan. This includes effects that would be significant, but that would be mitigated by either policies of the Urban Area General Plan or by new mitigation measures identified in the Master EIR. The effects addressed by the findings are:

<u>Effect</u>	<u>Page in FMEIR</u>
---------------	----------------------

- | | |
|----|--|
| a. | The City Council adopts these Findings, attached hereto as Exhibit "A" and incorporated herein by this reference, which makes findings for each significant impact identified in the FMEIR and the project alternatives identified in the FMEIR. |
| b. | In accordance with CEQA and the State CEQA Guidelines, the FMEIR examined a range of reasonable alternatives to the Project which could feasibly attain the basic objectives of the Project and evaluated the comparative merits of the alternatives including:

Alternative 1 - the No-Project Alternative – the current General Plan without any amendments, Alternative 2 – the 1998 Capital Facility Fee (CFF) Program Roadway Modifications Only, and Alternative 3 – the Beckwith/Dakota Comprehensive Planning district Develops after year 2025. |
| c. | The City Council adopts the Findings Supporting Rejection of Alternatives, included in Exhibit "A" and incorporated herein by this reference, which makes findings for the rejection of each alternative analyzed in the FMEIR. The City Council, exercising |

their own independent judgment, determines that such Findings are supported by substantial evidence in the record.

6. Statement of Overriding Considerations.

a. The Final Master EIR identified the following impacts as

Significant and Unavoidable:

<u>Effect</u>	<u>Page in FMEIR</u>
Traffic and Circulation Needs (direct and cumulative impacts)	V-1-22-30
Degradation of Air Quality (direct and cumulative impacts)	V-2-20-23
Generation of Noise (direct and cumulative impacts)	V-3-17-20
Loss of Productive Agricultural Land (cumulative impact)	V-4-9-10
Increased Demand for Long Term Water Supplies (cumulative impact)	V-5-10&11
Increased Demand for Sanitary Sewer Facilities (cumulative operational impact)	V-6-10
Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)	V-7-25
Potential Disturbance of Archaeological or Historical Sites (cumulative impact)	V-V-8-18
Increased Demand for Storm Drainage (cumulative impact)	V-9-10
Growth-Inducement	VI-1-4

b. In accordance with Section 21081 of the Public Resources Code and Section 15093 of the State CEQA Guidelines, in order to approve the Project the City Council must make a statement, supported by findings, as to the specific economic, legal, social, technological, or other benefits of the project, which outweigh the project's unavoidable environmental impacts. The City Council has balanced the benefits of the proposed project against its unavoidable environmental risks in determining whether to

approve the project and has determined that the adverse environmental effects are acceptable.

- c. The City Council adopts the Statement of Overriding Considerations, attached hereto as **Exhibit "B"** and incorporated herein by this reference.

7. Mitigation Monitoring.

Pursuant to Section 21081.6 of the Public Resources Code, the mitigation monitoring program set forth in **Exhibit "C"**, is hereby adopted and incorporated herein by this reference to ensure that all mitigation measures adopted for the Project are fully implemented.

8. Location and Custodian of Documents

The record of project approval shall be kept in the office of the Community and Economic Development Department, City of Modesto, City Hall, 1010 Tenth Street, Modesto, CA 95354.

9. Certification. Based on the above facts and findings, the City Council of the City of Modesto hereby certifies the Final Master Environmental Impact Report Update for the Modesto Urban Area General Plan as accurate and adequate. The City Council further certifies that the FMEIR Update was completed in compliance with CEQA and the State CEQA Guidelines. The Community Development Director is directed to file a Notice of Determination as required by CEQA and the State CEQA Guidelines.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on March 4, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

Noes: Councilmembers: Jackman

Absent: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS
AND REJECTION OF ALTERNATIVES

Pursuant to Public Resources Code Section 21081 and Section 15091 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant effects on the environment unless it adopts findings with respect to each significant effect. The City must also find that there are specific considerations that make infeasible the alternatives identified in the EIR.

In Section A below, the City will make one or more of the following findings for each of the significant effects identified in the Master EIR:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures identified in the Master EIR.

In Section B below, the City will make the following finding regarding each of the alternatives identified in the Master EIR.

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Section 21081 provides that the City may also find that "changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency." That finding does not apply to any of the significant effects identified in the Master EIR.

A. FINDINGS REGARDING SIGNIFICANT IMPACTS

Traffic and Circulation Needs Impact: The project will result in an increase in traffic, with a related reduction in the level of service (LOS) on various streets within the planning area.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Modesto Urban Area General Plan policies under section V-4.B.5 require general actions, such as Transportation Demand Management, encouragement of walking, and promotion of bicycle use to reduce future traffic demand. Modesto Urban Area General Plan policies under section V-4.B.6 (applicable to the Baseline Developed Area and

Redevelopment Area) require the review of individual development projects in order to maintain projected LOS. Where LOS cannot be maintained, the policies would require the preparation of a Comprehensive Traffic Study as part of a mitigated negative declaration or Focused EIR on the project. Site-specific mitigation measures will be imposed on that development. The Initial Study prepared for each subsequent activity under the Master EIR (as required by Public Resources Code Section 21157.1) will determine whether the project would exceed projected traffic LOS and, if so, require an analysis and mitigation of the excess traffic.

Modesto Urban Area General Plan policies under section V-4.B.7 (applicable to the Planned Urbanizing Area) require a Comprehensive Traffic Study prior to approval of any Comprehensive Plan. The Comprehensive Plan will include measures necessary to maintain a standard of LOS D.

Traffic and Circulation Needs Impact: The project will contribute to a substantial cumulative impact related to an increase in the existing traffic load in relation to the capacity of the street system.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

The EIR certified by the Stanislaus Council of Governments (StanCOG) for its Regional Transportation Plan in 2001 identified the increase in traffic as a cumulative effect. This increase is the result of social and economic conditions that favor continued growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for their fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County, nor the city may choose to restrict housing opportunities.

Data from the California Department of Finance indicates that the statewide population increased by approximately 13.8 percent (*Public Law 94-171 Summary File, Table 1: Population Change 1990 – 2000, Incorporated Cities by County*). During the same period, the California Department of Motor Vehicles reported that vehicle registration, including commercial vehicles and trailers, increased by 16 percent (*Estimated Fee-Paid Vehicle Registrations by County, Report 2001*). The rate of increase in motor vehicle registration closely tracks the rate of population increase.

The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections --June 2001*. California Department of Finance. Sacramento, CA). The number of motor vehicles may be expected to increase at a similar rate.

Degradation of Air Quality Impact: Over the span of the planning period, CO, NO_x, ROG, and PM₁₀ emissions will exceed the significance thresholds established by the San Joaquin Valley Unified Air Pollution Control District.

Findings:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

The City has adopted, as part of its Urban Area General Plan, various policies and air quality measures intended to moderate the effects of increased traffic and growth on air quality. These include General Plan policies VII-H.2 and the air quality measures in Tables 2-2 through 2-6 of the Master EIR that are referenced in those policies.

Although the above referenced policies will moderate the projected impacts on air quality, the increase in emissions is the result of social and economic conditions that favor continued growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for their fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County, nor the city may choose to restrict housing opportunities and thereby control emissions through growth prohibitions.

Motor vehicle use, a major source of emissions will increase with population. Data from the California Department of Finance indicates that the statewide population increased by approximately 13.8 percent (*Public Law 94-171 Summary File, Table 1: Population Change 1990 – 2000, Incorporated Cities by County*). During the same period, the California Department of Motor Vehicles reported that vehicle registration, including commercial vehicles and trailers, increased by 16 percent (*Estimated Fee-Paid Vehicle Registrations by County, Report 2001*). The rate of increase in motor vehicle registration closely tracks the rate of population increase.

The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections --June 2001*). The number of motor vehicles may be expected to increase at a similar rate. Despite expected improvements in control technology (e.g., a greater percentage of low emissions vehicles on the road, etc.) and regulations (e.g., limits on burning, formulation of paints, etc.), the increase in vehicles and population will result in the exceedance of significance thresholds over the planning period.

Degradation of Air Quality Impact: The San Joaquin Valley Air Basin is an air quality non-attainment area. Planned growth in Modesto will make a considerable contribution to the cumulative air quality impact within the basin.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for their fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County, nor the city may choose to restrict housing opportunities and thereby control emissions through growth prohibitions.

Motor vehicle use, a major source of emissions will increase with population. Data from the California Department of Finance indicates that the statewide population increased by approximately 13.8 percent (*Public Law 94-171 Summary File, Table 1: Population Change 1990 – 2000, Incorporated Cities by County*). During the same period, the California Department of Motor Vehicles reported that vehicle registration, including commercial vehicles and trailers, increased by 16 percent (*Estimated Fee-Paid Vehicle Registrations by County, Report 2001*). The rate of increase in motor vehicle registration closely tracks the rate of population increase.

The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections --June 2001*). The number of motor vehicles may be expected to increase at a similar rate. Despite expected improvements in control technology (e.g., a greater percentage of low emissions vehicles on the road, etc.) and regulations (e.g., limits on burning, formulation of paints, etc.), the increase in vehicles and population will result in the exceedance of significance thresholds over the planning period. As the largest city in Stanislaus County, Modesto's growth will make a significant contribution to the county's population gain.

Generation of Noise Impact: Traffic noise levels under future conditions have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

The City has adopted, as part of its Urban Area General Plan, various policies which moderate the effects of increased traffic and growth on noise. These include the Modesto City Noise Ordinance, which limits noise to daytime hours and prohibits the production of loud noises from stationary engines, and General Plan policies VII-G.3 and VII-G.4 which require mitigation of noise in new development in the existing City limits and Planned Urbanizing Area. These policies are implemented through the Initial Study analysis that is applied to all discretionary projects undertaken under the General Plan.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid increases in noise associated with additional growth (including traffic).

Generation of Noise Impact: Traffic noise levels from individual projects under future conditions have the potential to make a cumulatively considerable contribution to the City's noise levels.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid increases in noise associated with additional growth (including traffic). Individual project contributions, although moderated by the City Noise Ordinance and General Plan policies described above, would be sufficient to result in a cumulative exceedance of City noise standards in some situations.

Effects on Agricultural Land Impact: The Urban Area General Plan will convert land from agricultural to urban use, particularly in the Planned Urbanizing Area. This impact is less-than-significant in the Baseline Developed and Redevelopment Areas since this conversion has already taken place.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

The City of Modesto is surrounded by agricultural lands. As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid the conversion of agricultural land associated with additional growth (including traffic). The City has adopted policies intended to encourage compact growth, including policies VII.D.3[e] of the Urban Area General Plan. While these policies will result in higher densities of development than might occur without those policies, thereby reducing the total amount of farmland that must be converted to meet growth projections, the existing built area of the City cannot absorb the projected 100 percent increase in City population during the planning period.

Effect on Agricultural Land Impact: Modesto's growth will contribute to the cumulative impact of County-wide growth on agricultural lands.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid the conversion of agricultural land associated with additional growth (including traffic). The City has adopted policies intended to encourage compact growth, including policies VII.D.3[e] of the Urban Area General Plan. While these policies will result in higher densities of development than might occur without those policies, thereby reducing the total amount of farmland that must be converted to meet growth projections, the existing built area of the City cannot absorb the projected 100 percent increase in City population during the planning period.

Increased Demand for Long-Term Water Supplies Impact: Future development under the Urban Area General Plan will contribute to the cumulative impact of future (2020) groundwater overdraft within the San Joaquin River basin during drought years.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid water demand that will contribute to future groundwater shortages. The City has adopted water conservation policies in Section V.C.2 of the Urban Area General Plan. In addition, as described in Section V-5 of the Master EIR, the City is participating in groundwater management planning for the Turlock, Stanislaus, and Tuolumne groundwater basins and, in conjunction with the Modesto Irrigation District, on an Integrated Water Resources Plan. These activities are intended to utilize groundwater resources efficiently, but are ultimately limited in their ability to avoid future groundwater overdraft by the sheer amount of growth that is forecast to arrive in the San Joaquin Valley, Stanislaus County, and Modesto by the year 2020.

Increased Demand for Sanitary Sewer Facilities Impact: Implementation of the City Wastewater Master Plan (WMP) would result in residual cumulative impacts on air quality and odors.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

The Master EIR prepared for the WMP identified this cumulative impact on the demand for additional sewer service resulting from future development under the Urban Area General Plan. As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid expansion of the Wastewater Treatment Plant.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will result in the loss of sensitive wildlife and plant habitat.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Except for lands within the designated riparian corridors (protected from development under the Urban Area General Plan's Comprehensive Planning District [CPD] policies), lands within the Baseline Developed Area and the Redevelopment Area are of limited habitat value. Impact within these areas are less-than-significant.

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the state and federal Endangered Species Acts, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3 (and requiring implementation of Table 7-1 of the Master EIR) will protect sensitive habitats.

New Mitigation Measure Biology-1, described in the Master EIR, will require the City to comply with federal requirements to avoid the incidental take of listed species.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will contribute to the cumulative loss of sensitive wildlife and plant habitat.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid loss of some habitat lands. The amount of growth that is forecast to arrive in the San Joaquin Valley, Stanislaus County, and Modesto by the year 2020 portends significant losses of habitat within the region.

Potential Disturbance of Archaeological or Historical Sites Impact: Substantial changes to existing historical structures resulting from Zoning Ordinance requirements such as parking and landscaping could have a significant effect.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Policies VII-F.2 of the Urban Area General Plan, New Mitigation Measure Cultural-1 and revised Table 8-1 of the Master EIR will reduce this effect to less-than-significant levels. The General Plan policies require protection of archaeological and historical resources within the planning area. New Mitigation Measure Cultural-1 requires the addition of new General Plan policy V.F.2[g] requiring the City to maintain inventories of historical resources and to protect historical resources through the discretionary review process. Revised Table 8-1 establishes procedures for mitigating impacts to cultural resources.

Potential Disturbance of Archaeological or Historical Sites Impact: The cumulative impacts on cultural resources is the same as the project impact described above.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Policies VII-F.2 of the Urban Area General Plan, New Mitigation Measure Cultural-1 and revised Table 8-1 of the Master EIR will reduce this effect to less-than-significant levels. The General Plan policies require protection of archaeological and historical resources within the planning area. New Mitigation Measure Cultural-1 requires the addition of new General Plan policy V.F.2[g] requiring the City to maintain inventories of historical resources and to protect historical resources through the discretionary review process. Revised Table 8-1 establishes procedures for mitigating impacts to cultural resources.

Increased Demand for Storm Drainage Impact: New development will potentially stress existing stormwater drainage systems.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies applicable to the Baseline Developed Area (where rockwells provide a portion of the existing storm drainage capacity), including policies V-E.2, require construction of adequate storm drain facilities with new development.

Urban Area General Plan policies applicable to the Planned Urbanizing Area, including policies V-E.3, will require new development areas to be served by positive storm drainage systems, including dual-use (e.g., drainage and recreation) facilities. Tables 9-1 through 9-4 of the Master EIR establish requirements for drainage plans, the design of sediment control basins, and set out best management practices for drainage design. In addition, plans and specifications for new stormwater facilities within the City must comply with the City's Comprehensive Stormwater Management Program to ensure the avoidance of pollutants in stormwater.

In addition, New Mitigation Measure Drainage-1 requires the City to adopt a Master Drainage Plan, in consultation with Stanislaus County, MID, and TID, to address the projected cumulative flows that would be discharged to MID and TID facilities from the urbanized drainage areas. The master drainage program would include the procedures for planning, evaluation, and design of necessary stormwater drainage facilities to ensure that facilities are capable of accommodating the additional flows. The master drainage program would include capital improvement, operations, and maintenance-financing plans necessary to ensure that facilities are constructed in a timely fashion to reduce the impacts from potential flooding problems.

Increased Demand for Storm Drainage Impact: Development in Modesto and the County will contribute to cumulative impact on the capacity of Modesto Irrigation District and Tuolumne Irrigation District canals to convey drainage waters.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid increased volumes of storm drainage water.

Flooding and Water Quality Impact: Increased development could contribute to runoff, contributing to flooding problems in the urban area. Development of urban areas could increase discharges of erosion and wastes to surface waters through urban runoff.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Adopted policies of the Modesto Urban Area General Plan, specifically General Plan policies VI-C.2 and VI-C.3, City floodplain ordinances, and the City's Guidance Manual for New Development Stormwater Quality Control Measures would reduce direct impacts to less than significant by, among other things, restricting development within floodplains and requiring specific water-quality protections from development.

Flooding and Water Quality Impact: Cumulative impacts could occur from the project's contributions to runoff and discharges of waste and erosion.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Adopted policies of the Modesto Urban Area General Plan, specifically General Plan policies VI-C.2 and VI-C.3, City floodplain ordinances, and the City's Guidance Manual for New Development Stormwater Quality Control Measures, as well as federal regulations limiting discharges to surface waters (Clean Water Act sections 402 [NPDES permitting] and 401 [water quality certification]), would reduce the City's contribution to cumulative impacts to less than significant by, among other things, restricting development within floodplains and requiring specific water-quality protections from development.

Increased Demand for Parks and Open Space Impact: Increased population under the Urban Area General Plan would increase demand for park and open space facilities, requiring new facilities to be constructed.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies, including policies V-G.2 and V-G.3, require the provision of park facilities as new development occurs. The required minimum acreages can be met through the application of existing policies and regulations, including also Government Code Section 66474, which enables the City to require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage.

Increased Demand for Schools Impact: The project would necessitate the construction of additional school facilities to satisfy the demand created by increased population under the Urban Area General Plan. This is both a direct and cumulative impact.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

State law, commonly referred to as SB 50, governs K-12 school financing. SB 50 provides that payment of development impact fees, or other compliance with its provisions, reduces the impact on schools to a less-than-significant level.

Generation of Hazardous Materials Impact: Impacts from the generation, transportation, storage, and disposal of hazardous materials within the Baseline Developed Area and the Planned Urbanizing Area cannot be completely eliminated.

Finding:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies, including policies V-M.2, require avoidance of impacts in new development. Federal and state laws regulating the transportation, storage, disposal, and clean-up of hazardous materials and wastes, including those programs administered by Stanislaus County, are described in Section V-16 of the Master EIR. Together, these reduce the impacts to a less-than-significant level.

Growth-Inducing Impact: The Urban Area General Plan will have a growth-inducing impact by removing regulatory obstacles to growth.

Finding:

Specific legal, economic and social considerations make infeasible the mitigation measures identified in the Master EIR.

Supporting Evidence:

State Planning Law requires each city and county to adopt a general plan for its future development. This general plan must consider land use, transportation, housing, conservation, open-space, noise, and safety issues. Under the Housing Element, State Law requires the City of Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Fair share housing need allocations are assigned on the basis of population projections for the region. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections -- June 2001*).

State law prohibits the City from adopting a general plan that would not make provision for this future growth.

As described in Chapter VI of the Master EIR, the City has adopted a number of policies intended to control the rate of its growth, and to encourage higher-than-usual density of development so that the urban area will develop compactly. These policies will channel the direction and form of growth, but will not prevent it.

B. FINDINGS SUPPORTING REJECTION OF ALTERNATIVES

The Final MEIR discussed and evaluated a range of alternatives as required by CEQA Guidelines Section 15126.6. In order to reject an alternative, the City must find:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Following are the findings supporting rejection of each of the alternatives.

Alternative 1. No Project Alternative: The "No Project Alternative" reflects the continuation of the 1995 Modesto Urban Area General Plan, as previously amended, into the future.

Finding for rejection:

Specific legal and fiscal considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

The California Planning and Zoning Law (Government Code Section 65300, et seq.) requires each City to adopt a long-term general plan for its physical development. The general plan is expected to be comprehensive, internally consistent, and have a long-term perspective (Chapter 1, *State General Plan Guidelines*. Office of Planning and Research. 1998) Furthermore, the provisions of the circulation element must be "correlated" with the land use element (Government Code Section 65302(b)). In addition, in a charter city such as Modesto, subdivisions of land, specific plans, development agreements, capital improvement plans, and comprehensive plans must be consistent with the general plan (Government Code Sections 66474, 65454, 65867.5, 65103, and 65300.5, respectively).

Since the 1995 adoption of the Urban Area General Plan, the City has revised its job generation estimates, refined its traffic model, identified numerous cultural resources, among other things. These will change the way in which the City considers land use projects. Accordingly, these changes must be represented in revisions to the General Plan roadway network (in order to maintain correlation with the land use element), cultural resources section, and other policies in the Urban Area General Plan so that they may be reflected in the review of subdivisions, specific plans, and other City actions that require consistency with the General Plan. In order to ensure that the general plan consistently reflects proposed changes to the City's roadway network, cultural resources preservation policies, and other policies described in Chapter III (Project Description) of the Master EIR, the City is required to incorporate these proposed changes into the General Plan itself.

The California Environmental Quality Act provides that a Master EIR must be examined within 5 years of its original certification to ensure that it continues to reflect the environment and current information about environmental effects (Public Resources Code Section 21157.6). Since the certification of the Master EIR for the Urban Area General Plan in 1995, the City has consistently cross-referenced new information from later environmental analyses, such as the Focused EIR prepared for the Kiernan Business Park Specific Plan and the Master EIR for the Wastewater Master Plan, to the

Urban Area General Plan Master EIR. In order to ensure that its Master EIR meets the spirit, as well as the letter, of the law Modesto is certifying this update of its Master EIR.

Alternative 2. 1998 Capital Facilities Fee (CFF) Modifications Only Alternative: The "1998 Capital Facilities Fee (CFF) Modifications Only Alternative" consists of a series of modifications to the proposed roadway network that were considered necessary in order that facility improvements could be fully funded through the CFF and other foreseeable funding sources. These comprise an alternative to the set of Modesto Urban Area General Plan roadway network amendments proposed as part of the project.

Finding:

Specific technical considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

This alternative reflects a set of modifications to the roadway network developed in 1998 for consideration as part of the Master EIR Update. Additional development projects approved since 1998, as well as more recent traffic modeling studies have lead the City's Transportation Planners and Engineers to conclude that a number of network modifications, not reflected in Alternative 2, are necessary in order to efficiently serve future development under the Urban Area General Plan. Further, since developing this alternative the City has refined its traffic model and chosen to use that revised traffic model for future traffic projections.

Alternative 2 is rejected because it does not reflect the City's current understanding of traffic generation by proposed land uses (as a function of land use, current employment estimates, and other factors), as embodied in the City's refined traffic model.

Alternative 3. Beckwith/Dakota Comprehensive Planning District (CPD) Develops after Year 2025 Alternative: The "Beckwith/Dakota Comprehensive Planning District (CPD) Develops after Year 2025 Alternative" assumes that no development will occur within the 1,040- acre Beckwith/Dakota CPD until after year 2025.

Finding:

Specific legal and social considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

Although there are currently no proposals to develop the Beckwith/Dakota CPD, such proposals may arise prior to the 2025 planning horizon. The Beckwith/Dakota CPD is designated for business park development on the Urban Area General Plan. General Plan policies (e.g., Policy II-B.1[a]) encourage business park development in order to diversify the City's economic base. Acting to discourage development of this CPD if such a project were proposed would be inconsistent with the General Plan. Government Code Section 65300.5 requires the General Plan to be internally consistent and so would prohibit that action.

Stanislaus County suffers from chronically high unemployment levels in comparison to the rest of California. Based on information from the State Employment Development Department, Stanislaus County's unemployment rate is often twice the state average. In 2001, for example, the County's annual average unemployment rate was 10.2 percent while that of California as a whole was 5.3 percent. In 2000, Stanislaus' rate was 10.4 percent while the California rate was 4.9 percent. (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003)

While population growth has been rapid in the area, job growth has not kept pace. The Beckwith/Dakota CPD would generate as many as 26,000 employees at build out. These additional jobs would help to reduce unemployment within the region and meet community growth policies of the Urban Area General Plan which give top priority to expansion of business park areas and diversify the City's economic base (e.g. Policy II-B.1[a]).

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant unavoidable effects on the environment, unless it adopts a statement of overriding considerations that finds that specific overriding economic, legal, social, technological or other benefits of the project outweigh its significant effects on the environment.

The Master EIR identified the following adverse effects of the project that cannot be mitigated below a level of significance:

- Traffic and Circulation Needs (direct and cumulative impacts)
- Degradation of Air Quality (direct and cumulative impacts)
- Generation of Noise (direct and cumulative impacts)
- Loss of Productive Agricultural Land (cumulative impact)
- Increased Demand for Long Term Water Supplies (cumulative impact)
- Increased Demand for Sanitary Sewer Facilities (cumulative operational impact)
- Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)
- Potential Disturbance of Archaeological or Historical Sites (cumulative impact)
- Increased Demand for Storm Drainage (cumulative impact)
- Growth-Inducement

A. FINDINGS REGARDING SIGNIFICANT UNAVOIDABLE IMPACTS

The City Council has determined that the Modesto Urban Area General Plan Amendments should be approved and that any remaining unmitigated environmental impacts attributable to the Modesto Urban Area General Plan are outweighed by the following specific benefits.

Traffic and Circulation Needs (direct and cumulative impacts)

The proposed project, particularly the General Plan Amendment for the roadway network, will establish a set of roadway network standards that are more economically feasible than the current network and that are consistent with new information from the City's traffic model. Because the City will lack sufficient financing to make the roadway improvements identified in the 1995 Urban Area General Plan, it will be unable to meet the standards established in that plan. The proposed project promotes internal consistency within the General Plan, as required under Government Code Section 65300.5.

Although the project will exceed Level of Service standards along numerous road segments within the Planning Area, the development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities in total within the planning area at build-out. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences benefits the community both socially and legally by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

The City of Modesto's Redevelopment Plan, adopted in 1991, contains numerous goals and policy statements, which would not be achieved without the promotion of significant employment opportunities. The proposed project benefits the City economically by authorizing nearly 45,000 new employment opportunities and 5,700 residents in the central city area.

Primary among these redevelopment goals are the following:

- The replanning, redesign and development of undeveloped areas, which are stagnant or improperly utilized.
- The strengthening of retail and other commercial functions in the Project Area.
- The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial expansion, employment and economic growth.
- The expansion of the supply of housing for low- and moderate-income persons.

Degradation of Air Quality (direct and cumulative impacts)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections* --June 2001. California Department of Finance. Sacramento, CA). The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences economically benefit the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Generation of Noise (direct and cumulative impacts)

The proposed project, particularly the General Plan Amendment for the roadway network, will establish a set of roadway network standards that are more economically feasible than the current network and that are consistent with new information from the City's traffic model. Because the City will lack sufficient financing to make the roadway improvements identified in the 1995 Urban Area General Plan, it will be unable to meet the standards established in that plan. Although the proposed project will result in increased levels of transportation-related noise at build-out in 2025, it offers the legal benefit of promoting internal consistency within the General Plan, as required under Government Code Section 65300.5.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences socially and legally benefit the community by helping it meet its future

regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Loss of Productive Agricultural Land (cumulative impact)

Agriculture is a mainstay of the Stanislaus County economy, with a 2001 market value for its commodities of over \$1.35 billion (*Agriculture Resource Directory 2002*. 2002. California Department of Food and Agriculture. Sacramento, CA). Nonetheless, agriculture is a seasonal occupation and is one reason for Stanislaus County's relatively high unemployment rate. High unemployment rates are common among the agricultural-dependent counties of the San Joaquin Valley, as well as Imperial County (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003).

The proposal has the social and economic benefits of encouraging significant new employment opportunities, outside of agriculture, as the business parks identified in the Urban Area General Plan are developed. At build-out, the plan would allow up to 144,000 new jobs within the planning area. This will create a more diversified job market. It will also enable the City to meet the economic development goals of its general plan calling for diversification of its economic base (Policy II-B.1[a]).

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections* --June 2001. California Department of Finance. Sacramento, CA). The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

Increased Demand for Long Term Water Supplies (cumulative impact)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the economic and social benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences socially and legally benefits the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

The policies of the City's Urban Area General Plan offer the planning benefit of providing a mechanism for responding to future drought conditions. The General Plan and Urban Water Management Plan (UWMP) identify a number of actions that the City is currently conducting or planning to implement to reduce demands on the water supply. These measures include limiting groundwater extraction to the level considered a safe yield for the aquifers, increasing the use of reclaimed wastewater, implementing a mandatory residential water metering, and implementing drought-response measures. The UWMP describes the City's 3-stage Water Shortage Contingency Plan that is implemented during times of drought. Each stage of the drought contingency plan allows the City to implement more restrictive water rationing from relatively simple mechanisms (e.g., outdoor watering restrictions, requiring leaks to be fixed, reducing restaurant water use, requiring positive shutoff and low-flow water fixtures) to very restrictive measures such as mandatory system retrofitting requirements and imposing moratoriums on new construction. The City has implemented additional distribution system improvements, maintenance programs, and automated control systems in recent years to increase system efficiency and reduce water losses. An existing City ordinance requires water meters to be installed on new construction. Although the City currently charges a flat rate for water use, installation of water meters will reduce water use by allowing the City to implement structured water pricing policies if deemed necessary.

Increased Demand for Sanitary Sewer Facilities (cumulative operational impact)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the social and economic benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences socially and legally benefits the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The policies of the Urban Area General Plan relating to the CPDs and protection of special status species within the riparian corridors and the Planned Urbanizing Areas offer the benefit of enabling the City to undertake comprehensive planning of large areas. This will provide opportunities for programmatic, large-scale approaches to the protection of special status species and their habitats.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the economic and social benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences benefits the community socially and legally by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Potential Disturbance of Archaeological or Historical Sites (cumulative impact)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

New policies proposed as part of this project (see Chapter III of the Master EIR and Section V-8, New Mitigation Measure Cultural-1 and revised Table 8-1) will help to protect existing historic resources from damage or destruction that might otherwise occur as a result of meeting City Zoning Ordinance requirements. This is a resource-protective benefit over existing policies.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the economic and social benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences socially and legally benefits the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Increased Demand for Storm Drainage (cumulative impact)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The Urban Area General Plan CPD policies give the City the opportunity to undertake comprehensive planning of large areas identified for future development. This provides the

benefit of being able to develop large-scale drainage facilities as part of these plans, in cooperation with other affected agencies. This has the planning benefit of creating programmatic solutions to drainage within those CPDs. The City is currently completing a Drainage Master Plan that will describe the schematic layout of future stormwater drainage systems in all of the planned urbanizing areas (Gilton pers. Comm.). In addition, the City is participating with MID and other local agencies on the preparation of an Integrated Water Resources Management Plan that will address water resources planning and management in the region for surface water, groundwater, wastewater, and stormwater drainage.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the social and economic benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences economically and legally benefits the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Growth-Inducement

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the Urban Area General Plan and the General Plan Amendments made a part of this project offer the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The development associated with the Urban Area General Plan would result in approximately 144,000 new employment opportunities within the planning area at build-out in 2025. The increased number of local jobs has the economic and social benefits of reducing chronic local unemployment levels that are currently nearly twice the statewide average (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003). The increased number of residences legally and socially benefits the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

Mitigation Monitoring Program

Background

1. Purpose of the Monitoring Program

This Mitigation Monitoring Program is prepared in accordance with Section 21081.6 of the Public Resource Code. Its purpose is to provide for the accomplishment of the new mitigation measures required by the Final Master Environmental Impact Report (FMEIR) for the City of Modesto Urban Area General Plan.

Because the Master EIR approach has been utilized and because the subject project is a General Plan, the required mitigation measures are programmatic in nature. The mitigation measures generally consist of long-term strategies to be implemented through individual future development projects or through new and existing City procedures.

While implementation of some of the mitigation measures will be ongoing, the implementation of other mitigation measures will occur only when the need arises. For example, building code enforcement will be ongoing, but improvements to the circulation system will be constructed when traffic exceeds acceptable service levels, or when development occurs. Implementation of any programmatic measures will be subject to funding availability.

2. When Implemented

The mitigation measures required for the General Plan will be implemented at various times as development proceeds in the City of Modesto. For each mitigation measure, the implementation schedule may either be ongoing, or concurrent with development. Ongoing indicates that the mitigation measure is a broad policy statement that must be continually implemented. Mitigation measures will also be implemented through all or some future development projects.

3. Monitoring Agency

For each mitigation measure, the monitoring agency will be the City of Modesto. The City will be responsible for ensuring that the mitigation measure is properly implemented.

4. Monitoring Schedule

All the mitigation measures will be monitored periodically, to ensure that implementation is successful. Monitoring will occur, at a minimum, during the Annual General Plan Review and/or during individual development project processing. All of the mitigation measures determined as ongoing will be monitored during the Annual General Plan Review. All of the mitigation measures to be implemented through individual projects will be monitored during both the Annual General Plan Review and through individual project processing.

5. Monitoring

The 2003 FMEIR for the General Plan identifies a number of new mitigation measures to reduce significant environmental impacts. Those mitigation measures identified in the 1995

FMEIR certified for the Urban Area General Plan have been made policies of that plan and are identified in the 2003 FMEIR as policies in place that reduce or avoid significant effects, rather than mitigation measures. They are monitored through the City's Annual Review of its General Plan and are not included as part of this Mitigation Monitoring Program. Some of the new mitigation measures are long-term programs and policies while others are to be implemented through future development projects. The following Mitigation Monitoring Program is limited to those new mitigation measures identified under the 2003 FMEIR. It also identifies those FMEIR tables that have been revised since the 1995 FMEIR was certified and that are referenced in General Plan policies.

When a focused Environmental Impact Report or Mitigated Negative Declaration is prepared for a subsequent development project, the FMEIR for the General Plan will be reviewed in accordance with Section 21157.1 of the Public Resources Code, the City will adopt a Mitigation Monitoring Program specific to that project. The environmental documentation for the proposed development project shall include all the mitigation measures from the FMEIR for the General Plan that are applicable to the proposed project as individual project-level mitigation measures. If some of the applicable mitigation measures have already been incorporated into the project design prior to the preparation of the environmental documentation, the measures will not be included as project-level mitigation measures.

Refinements of the mitigation measures and/or additional mitigation measures beyond those identified in the FMEIR may be required to reduce significant project-level impacts associated with each proposed development project. All mitigation measures identified in the project-level environmental documentation will also be included in the Mitigation Monitoring Program for that project.

6. Format.

The following format is employed for each mitigation measure, in order to comply with the Mitigation Monitoring requirement of Section 21081.6 of the Public Resources Code:

Mitigation Measure

This describes the mitigation measure identified in the Master EIR.

a. Method of Project Implementation

The City of Modesto has adopted all of the mitigation measures identified in the Master EIR into the Modesto Urban Area General Plan as Policy Statements. This approach will comply with section 21081.6(2)(b), which states:

"A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures, or in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design." (emphasis added)

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

In order to ensure compliance of a subsequent project with the Mitigation Measure, the measure itself must be carefully written. It is important to describe the means by which the mitigation measure relates to current practices, or established methods of review.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures", as follows:

The City has adopted the subject mitigation measure as a Policy Statement in the General Plan. This approach will comply with Public Resources Code Section 21081.6(2)(b).

Mitigation Monitoring Program

Mitigation Measure - Biological Resources

New Mitigation Measure Biology-1: Urban Area General Plan Policy VII-E amendment

3(a) For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure 7-1 in the Final Master EIR. (Riparian Corridor Diagram). Prior to considering development applications, the City shall coordinate with the U.S. Fish and Wildlife Service (USFWS) regarding listed species and potential for impacts. The City shall employ the measures recommended by the USFWS to avoid incidental take.

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by the DFG and USFWS. The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes.

a. Method of "Project Implementation"

This Mitigation Measure is incorporated directly into the General Plan as a Policy Statement.

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

The mitigation measure will be applied during the preparation of specific plans and community plans within the Planned Urbanizing Area.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

State Planning Law (Government Code Section 65100, et seq.) requires specific plans and community plans to be consistent with the Urban Area General Plan. As a result, this measure must be applied during the preparation of a specific plan or community plan.

Mitigation Measure - Biological Resources

Policies VII.E.3 of the Urban Area General Plan will cite Table 8-1 of the 2003 Master EIR, rather than the 1995 Master EIR.

a. Method of "Project Implementation"

This Mitigation Measure is incorporated by reference into the General Plan policies.

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

The mitigation measure will be applied during the preparation of specific plans and community plans within the Planned Urbanizing Area.

d. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

State Planning Law (Government Code Section 65100, et seq.) requires specific plans and community plans to be consistent with the Urban Area General Plan. As a result, this measure must be applied during the preparation of a specific plan or community plan.

Mitigation Measure - Cultural Resources

New Mitigation Measure Cultural-1: The Urban Area General Plan shall be amended to include the following Policy VII.F.2[g]:

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.

e. Method of "Project Implementation"

This Mitigation Measure is incorporated directly into the General Plan as a Policy Statement.

f. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

Archeological and historical analysis in the Master EIR has used commonly-accepted analytical criteria of the Central California Information Center

(Turlock), National Register of Historic Places, and California State Office of Historic Preservation. The mitigation measure will be applied during the review of subsequent projects through the City's Initial Study process.

g. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

Section VII-F(2) of the General Plan presents these Mitigation Measures as General Plan Policies. Conditions of approval will be applied at such time as individual projects are approved. Where a project is found, through the Initial Study process, not to comply with these policies, the City will prepare a Mitigated Negative Declaration or Focused EIR and may impose further requirements at that time. Subsequent implementation actions, such as amendments to the Municipal Code, may provide further enforcement opportunities.

Mitigation Measure - Cultural

Policies VII.F.2[a] of the Urban Area General Plan shall be amended to cite Table V-8-1 of the 2003 Master EIR, rather than the 1995 Master EIR.

a. Method of "Project Implementation"

This Mitigation Measure is incorporated directly into the General Plan as a Policy Statement.

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

Policies VII-F(2) of the Urban Area General Plan require compliance with the provisions of Table 8-1 during project review.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

General Plan conformance review, which assures that this Mitigation Measure is "fully enforceable," is required for:

- Subdivision Maps (66473.5, Government Code)
- Public Works Projects/Capital Improvement Program (65401)
- Specific Plans (65454)
- Development Agreements (65867.5)
- Redevelopment Plan (33330, et seq, Health & Safety Code)
- Comprehensive Plans (Section III-D, General Plan)

These are the primary means of reviewing development plans and installing public facilities.

Mitigation Measure - Noise

Noise Table 3-3 is incorporated into the 2003 FMEIR to continue the requirement under Urban Area General Plan noise policies VII-G.3 and VII-G.4 that individual project noise contours be based on the assumptions in Table 3-3.

a. Method of "Project Implementation"

This Mitigation Measure is into the General Plan by reference as a Policy Statement.

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

Table 3-3 will be applied as part of the project conformance review when preparing noise impact studies for individual projects.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

General Plan conformance review, which assures that this Mitigation Measure is "fully enforceable," is required for:

- Subdivision Maps (66473.5, Government Code)
- Public Works Projects/Capital Improvement Program (65401)
- Specific Plans (65454)
- Development Agreements (65867.5)
- Redevelopment Plan (33330, et seq, Health & Safety Code)
- Comprehensive Plans (Section III-D, General Plan)

These are the primary means of reviewing development plans and installing public facilities.

1. Mitigation Measure

New Mitigation Measure Drainage-1: The City of Modesto shall adopt a Master Drainage Plan, in consultation with Stanislaus County, MID, and TID, to address the projected cumulative flows that would be discharged to MID and TID facilities from the urbanized drainage areas. The master drainage program should include the procedures for planning, evaluation, and design of necessary stormwater drainage facilities to ensure that facilities are capable of accommodating the additional flows. The master drainage program should include capital improvement, operations, and maintenance-financing plans necessary to ensure that facilities are constructed in a timely fashion to reduce the impacts from potential flooding problems.

a. Method of "Project Implementation"

This Mitigation Measure will be implemented as a result of the consistency requirements of State Planning Law. Government Code Section 65401 requires a consistency review of public works plans.

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

As a General Plan Policy, this Mitigation Measure must be followed in the Capital Improvement Program.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

General Plan conformance review, which assures that this Mitigation Measure is "fully enforceable," is required for:

- Subdivision Maps (66473.5, Government Code)
- Public Works Projects/Capital Improvement Program (65401)
- Specific Plans (65454)
- Development Agreements (65867.5)
- Redevelopment Plan (33330, et seq, Health & Safety Code)
- Comprehensive Plans (Section III-D, General Plan)

Mitigation Measure - Drainage

Tables 9-1 through 9-4 establish design considerations for new drainage facilities throughout the planning area.

a. Method of "Project Implementation"

These tables are incorporated into the General Plan indirectly, through references in General Plan Policies V-E.2 and V-E..

b. State Law requires the Mitigation Monitoring Program to be "designed to ensure compliance during project implementation." This Mitigation Measure supports the State Law requirement in the following manner:

As a General Plan Policy, this Mitigation Measure must be followed in the Capital Improvement Program.

c. This Measure is "fully enforceable through permit conditions, agreements, or other measures" as follows:

General Plan conformance review, which assures that this Mitigation Measure is "fully enforceable," is required for:

- Subdivision Maps (66473.5, Government Code)
- Public Works Projects/Capital Improvement Program (65401)
- Specific Plans (65454)
- Development Agreements (65867.5)
- Redevelopment Plan (33330, et seq, Health & Safety Code)
- Comprehensive Plans (Section III-D, General Plan)

These are the primary means of reviewing development plans and installing public facilities.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-124**

**A RESOLUTION APPROVING THE INSTALLATION OF A ROUNDABOUT AT
THE INTERSECTION OF SYLVAN AVENUE AND ROSELLE AVENUE AND
THE INTERSECTION OF SYLVAN AVENUE AND MILLBROOK AVENUE**

WHEREAS, on September 3, 2002, by Resolution No.2002-432 the City Council adopted a Roundabout Policy, and

WHEREAS, Modesto City Schools asked City staff to provide a traffic signal/roundabout comparison analysis at the intersection of Sylvan Avenue and Roselle Avenue (Sylvan/Roselle), and

WHEREAS, Modesto City Schools asked City staff to finalize the intersection controls for Sylvan/Roselle to aid them in finishing the improvement plans for a proposed high school, and

WHEREAS, Modesto City Schools also asked City staff to bring to the City Council for review and approval a proposed roundabout at the intersection of Sylvan Avenue and Millbrook Avenue (Sylvan/Millbrook), which will help complete the design of the entire frontage of a proposed high school, and

WHEREAS, the proposed roundabouts for Sylvan/Roselle and Sylvan/Millbrook comply with the Roundabout Policy, and

WHEREAS, on February 10, 2003, the Economic Development Committee approved the proposed roundabout at Sylvan/Roselle,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of roundabouts at the intersections of Sylvan Avenue and Roselle Avenue and Sylvan Avenue and Millbrook Avenue. In addition,

Staff is directed to prepare a visual model of the Sylvan/Millbrook intersection to resolve any engineering concerns that the schools may have and to advise the Council of any changes in the staff recommendation based on issues of student safety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Conrad

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-125**

**A RESOLUTION AWARDED A FIVE-YEAR CONTRACT TO STORER
TRANSIT SYSTEMS TO OPERATE THE MODESTO AREA DIAL-A-RIDE
SERVICE AND AUTHORIZING STAFF TO PREPARE A FINAL AGREEMENT
WITH STORER TRANSIT SYSTEMS FOR CONSIDERATION BY THE CITY
COUNCIL.**

WHEREAS, the existing agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride (MADAR) service expires June 27, 2003, and

WHEREAS, the City wishes to continue providing Dial-A-Ride 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 28, 2003, and

WHEREAS, two proposals were received for the contract, and

WHEREAS, an evaluation committee composed of staff from three different transit agencies and the City of Modesto selected Storer Transit System's proposal as the best submitted, and

WHEREAS, by an agenda report to the City Council dated February 11, 2003, from the Engineering and Transportation Director, recommended award of a new MADAR operations contract to Storer Transit systems, AND

WHEREAS, at its February 10, 2003, meeting, the Economic Development Committee approved recommending award of the contract to Storer Transit Systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a five-year contract to operate the Modesto Area Dial-A-Ride service is hereby awarded to Storer Transit Systems, subject to City Council approval of a final agreement.

BE IT FURTHER RESOLVED that staff is hereby authorized to prepare a final agreement with Storer Transit Systems 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 4th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-126**

A RESOLUTION APPROVING A “ZERO RENT” GROUND LEASE AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR THE AIRPORT SITE OF THE AUTOMATED SURFACE OBSERVATION SYSTEM (ASOS) EQUIPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNATED REPRESENTATIVE, TO EXECUTE THE LEASE ON BEHALF OF THE CITY.

WHEREAS, airport weather information is gathered and reported using an Automated Surface Observation System (ASOS) located at Modesto City-County Airport, and

WHEREAS, the ASOS equipment was owned and maintained by the National Weather Service of the National Oceanic and Atmospheric Administration (NOAA), and NOAA has leased an equipment site at the airport since 1994, and

WHEREAS, the City of Modesto recently received word from the Federal Aviation Administration (FAA) that the responsibility of maintaining the ASOS is now their responsibility, and

WHEREAS, the FAA is requesting that the City enter into a lease with the FAA for the ASOS site, and

WHEREAS, the FAA lease is a “zero rent” ground lease like the NOAA agreement that will continue 12 years beyond that of the NOAA lease, with an expiration date of September 30, 2021, and

WHEREAS, the Council’s Economic Development Committee considered the lease agreement at their February 10, 2003, meeting and supports the acceptance and the approval of the lease with the FAA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the ground lease agreement with the FAA allowing the continued use of a site at the airport for the Automated Surface Observation System (ASOS).

BE IT FURTHER RESOLVED that the City Manager or his designated representative is hereby authorized to execute the lease 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 11th day of March, 2003 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution was adopted by the following vote.

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-127**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR BIDS FOR WATER METERS, FOR A
THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION
OPTIONS.**

WHEREAS, the Operations and Maintenance Department Water Division has requested the purchase of water meters in various sizes, and

WHEREAS, these water meters will be used to service residential sites and commercial and industrial businesses within the City, and

WHEREAS, the purchase of new meters under the meter replacement program is for the replacement of non-operable and non-repairable water meters, and installation for new metered service in new subdivisions, and

WHEREAS, the City desires to solicit bids for a three (3) year agreement with two (2) one-year extension options, and

WHEREAS, Modesto Municipal Code (MMC), 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, by soliciting competitive bids for water meters in various sizes, the Finance Department Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

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 competitive sealed bids for the purchase of water meters in various sizes, for a three (3) year agreement with two (2) one-year extension options, 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 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmemeber Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-128**

A RESOLUTION AUTHORIZING THE PURCHASE OF THIRTEEN (13), 2003, FORD CROWN VICTORIA, CHP CLASS "E" PATROL SEDANS THROUGH HERITAGE FORD, MODESTO, CA. FOR A TOTAL ESTIMATED COST OF \$347,743.00

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of thirteen (13), 2003, Ford Crown Victoria, CHP Class "E" patrol sedans for the Police Department, and

WHEREAS, eleven (11) of these units have met their life expectancy and are fully funded for replacement from funds set aside out of the vehicle replacement fund, and

WHEREAS, two (2) additional units are needed to replace two patrol sedans that were totaled in collisions, and

WHEREAS, in previous years the police patrol vehicles were purchased through the State of California, Department of General Services vehicle contract, and

WHEREAS, this year the Purchasing Division issued a competitive bid inquiry to see if the pricing received from the local Ford dealer would be competitive with the State contract pricing, and

WHEREAS, after extensive comparison of vehicle standards and options, the pricing received from Heritage Ford was found to be more competitive than the pricing off the State vehicle contract based on not having to pay the administrative fees associated with accessing the contract, and

WHEREAS, pricing the vehicles locally will also afford the City the benefit of local tax dollars, and

WHEREAS, this purchase of 13 sedans is expected to meet the City's patrol sedan needs for the next 12 months, and

WHEREAS, the City will receive the full benefits of the vehicle warranty since warranty start is delayed until the vehicles are put into service, and

WHEREAS, in accordance with the recommendation of the Finance Committee at their meeting on August 26, 2002, staff is bringing requests for critical pieces of equipment forward to Council on an individual "as needed" basis, and

WHEREAS, on January 27, 2003, the Finance Committee recommended that a like-vehicle price comparison be obtained from the local Ford dealer, and

WHEREAS, the estimated cost of thirteen (13), 2003, Ford Crown Victoria, CHP Class "E" patrol sedans purchased through Heritage Ford, Modesto, Ca. is \$347,743.00, which is less than the cost of purchasing the vehicles under the State of California, Department of General Services contract, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC 8-3.204 (d) the Purchasing Supervisor may determine 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of thirteen (13), 2003, Ford Crown Victoria, CHP Class "E" patrol sedans from Heritage Ford, Modesto, Ca. for a total estimated cost of \$347,743.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

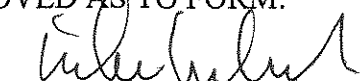
ABSENT: Councilmembers: Jackman

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-129**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR PROPOSAL (RFP) FOR HOT PATCH WORK.**

WHEREAS, the Operations and Maintenance Department-Water Division is requesting the purchase of hot patch work for the period of May 30, 2003, through May 30, 2004, with two one-year extension options, and

WHEREAS, hot patch work consists of asphalt repairs to street cuts made in order to perform repairs in Empire and Zone 3 water systems, and

WHEREAS, Zone 3 is comprised of Waterford, Hickman, Empire, Salida, Del Rio, Ceres, Turlock, Grayson, and County areas just outside the City limits that do not receive surface water from the Modesto Irrigation District (MID) 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 needed in Zone 3, and

WHEREAS, the City has encroachment permits with Stanislaus County that allow the City to make the necessary street cuts to repair Empire and Zone 3 water system, and

WHEREAS, those permits give us a restricted timeframe to repair the street system and perform the hot patch work once the street cuts are made, and

WHEREAS, the City has additional exposure to the liability for damages resulting from the vehicles traveling over the un-repaired cuts, and

WHEREAS, by soliciting competitive proposals for hot-patch work, the Finance Department, Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal proposal procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of proposals for hot-patch work is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for hot-patch work to be opened in the City Clerk, 1010 10TH 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 2. After the proposals 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 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-130**

**A RESOLUTION AUTHORIZING THE PURCHASE OF SIX (6), 2003
CHEVROLET SILVERADO 1500 TRUCKS OFF THE STATE OF CALIFORNIA,
DEPARTMENT OF GENERAL SERVICES CONTRACT AND FROM
COALINGA MOTORS OF COALINGA CA. FOR A TOTAL ESTIMATED COST
OF \$104,531.97**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of six (6), 2003 Chevrolet Silverado, 1500 trucks, and

WHEREAS, these units will replace trucks which have become unreliable and costly to keep operational, and

WHEREAS, these units have met their life expectancy, and

WHEREAS, these units are fully funded for replacement from funds set aside out of the Fleet Replacement Fund, and

WHEREAS, the estimated cost for six (6), 2003 Chevrolet Silverado, 1500 trucks purchased under the State of California, Department of General Services (DGS), Purchasing Division contract is \$102,694.19, and

WHEREAS, the estimated State service charge for using the DGS contract is \$1,837.78, and

WHEREAS, Coalinga Motors is the closest State authorized Chevrolet dealer for the Silverado 1500 trucks, and

WHEREAS, purchasing these Chevrolet trucks from Coalinga Motors under the DGS contract will allow the City to receive the lowest possible price for these vehicles, and

WHEREAS, the Purchasing Division went through an extensive informal bid process for these vehicles, and

WHEREAS, the lowest pricing received was \$2,000.00 more than the state pricing, and

WHEREAS, the estimated total cost of this purchase is \$104,531.97, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC 8-3.204 (d) the Purchasing Supervisor may determine 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,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the purchase of six (6), 2003 Chevrolet Silverado, 1500 trucks under the DGS statewide pricing contract for a total estimated cost of \$104,531.97

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

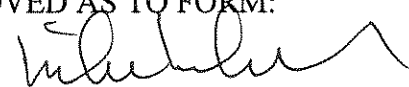
ABSENT: Councilmembers: Jackman

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-131**

A RESOLUTION AUTHORIZING THE PURCHASE OF A JOHN DEERE 304H WHEEL LOADER UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES, CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS) CONTRACT FROM NORTREX WEST OF FRENCH CAMP, CA. FOR A TOTAL ESTIMATED COST OF \$70,522.45.

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a John Deere 304H wheel loader, and

WHEREAS, this unit will replace a loader which has become unreliable and costly to keep operational, and

WHEREAS, this unit has met its life expectancy, and

WHEREAS, this unit is fully funded for replacement from funds set aside out of the Water Enterprise Fund, and

WHEREAS, the Water Department heavy construction crew, needs this loader to meet its work program installing and replacing major sections of water distributions lines, and

WHEREAS, the estimated cost of a new John Deere 304H loader Purchased under a California multiple Award Schedule (CMAS), General Services Administration Statewide pricing contract is \$69,277.13, and

WHEREAS, the estimated State Service Charge for using the CMAS contract is \$1,245.22, and

WHEREAS, purchasing the equipment from Nortrex West under the CMAS contract will allow the City to receive the lowest possible price for this piece of industrial equipment, and

WHEREAS, Nortrax West, French Camp, CA. is the closest authorized dealer for this equipment, and there are no local vendors authorized to sell this piece of industrial equipment, and

WHEREAS, the estimated total cost of this purchase is \$70,522.45, and
 WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC Section 8-3.204 (d) the Purchasing Supervisor may determine 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, at its meeting on February 24, 2003, the Finance Committee authorized City staff to take this equipment purchase to Council for approval,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the purchase of a John Deere 304H wheel loader from Nortrex West under the CMAS statewide pricing contract for a total estimated cost of \$70,522.45.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:


AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
 O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
 Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-132**

**RESOLUTION APPROVING AN AGREEMENT TO RECEIVE A \$342,000
REIMBURSEMENT FOR THE CONSTRUCTION OF A PACBELL RETAINING
WALL STRUCTURE ON THE KANSAS NEEDHAM OVERCROSSING
PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT**

WHEREAS, construction has started on the Kansas Needham Overhead Crossing project, and

WHEREAS, Pacbell manhole number 491 required a retaining wall adjacent to the Kansas Needham Overhead Crossing, and

WHEREAS, Pacbell has signed an agreement with the City to repay all costs incurred for the construction of the Pacbell MH 491 retaining wall, and

WHEREAS, Pacbell has reviewed and approved the retaining wall design, and

WHEREAS, in good faith, City of Modesto has proceeded with the initial engineering and construction briefings with its contractor, and

WHEREAS, the construction is ready to proceed, and

WHEREAS, the cost for all work has been determined and submitted to the City of Modesto in the amount of \$342,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement to accept the reimbursement of \$342,000 from Pacbell for the retaining wall construction.

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 March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-133**

**A RESOLUTION ACCEPTING THE BID AND AWARDING GRANITE
CONSTRUCTION COMPANY THE CONTRACT FOR THE PROJECT TITLED
“VILLAGE ONE WEST BASIN ROAD IMPROVEMENTS”**

WHEREAS, the bids received for Village One West Basin Road Improvements were opened at 11:00 a.m. on February 25, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$852,907.70 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 accepts the bid of GRANITE CONSTRUCTION COMPANY, and hereby awards GRANITE CONSTRUCTION COMPANY the contract titled “Village One West Basin Road Improvements” in the amount of \$852,907.70.

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 March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-134**

**A RESOLUTION RE-ADOPTING THE MODESTO NON-MOTORIZED
TRANSPORTATION MASTER PLAN.**

WHEREAS, staff has recently submitted grant applications to the State of California under the Bicycle Transportation Account (BTA) for funding for the Virginia Corridor, and

WHEREAS, BTA requires eligible applicants to have a non-motorized transportation plan adopted within four years from the time of submission of grant applications, and

WHEREAS, the City Council last adopted a Modesto Non-Motorized Transportation Master Plan in February 1997, and

WHEREAS, submitting a resolution re-adopting the Modesto Non-Motorized Transportation Master Plan prior to March 25, 2003, will guarantee the City's eligibility for BTA funding and the review of the City's grant applications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby re-adopts the Modesto Non-Motorized Transportation Master Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-135**

**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 following classification:

Traffic Engineer

This classification is being amended as a result of the updating of the job specification in preparation of opening a recruitment. The specification for the classification of Traffic Engineer (Range 447), 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 March 11, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
No. 2339

January, 2003

TRAFFIC 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 plan organize, direct, and participate in the development, operation, and maintenance of the City's traffic system and facilities; and to provide responsible staff assistance to the Deputy Director of Engineering and Transportation, Traffic and Development Services Division.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Deputy Director of Engineering and Transportation - Traffic and Development Services Division.

Exercises technical and functional supervision over professional, technical, 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

Develop and implement division goals, objectives, policies, and priorities.

Plan, organize, direct, review and evaluate work involving transportation planning and traffic engineering.

Provide advice and technical assistance to City Council and department management and staff, Planning Commission, Council committees, and the public on traffic matters.

Participate in review of development plans and Environmental Impact Reviews (EIR's).

Provide for the selection, training and professional development of assigned staff.

Direct or conduct studies and prepare reports and correspondence on traffic control issues for presentation to the City Council, Planning Commission, Council committees, and other civil bodies.

Establish and maintain liaison with appropriate governmental bodies, private firms, organizations or individuals to assist in achieving City objectives and insuring compliance with appropriate laws and technical standards affecting traffic engineering.

Represent the City in legal affairs related to traffic and transportation issues; coordinate and prepare answers to legal inquiries.

Monitor the operations and suitability of existing traffic facilities; recommend and assist in the implementation of new traffic control facilities.

Oversee and develop citywide traffic calming programs.

Prepare and administer division budget.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of traffic engineering.

Principles of traffic calming, neighborhood traffic reduction.

Transportation engineering theory and practices.

Current state and federal traffic regulations.

Recent developments, current literature, and sources of information regarding traffic engineering.

Principles of supervision, training, and budget administration.

Ability to:

Manage and prioritize a diverse traffic control program.

Analyze complex traffic control problems, evaluating alternatives and reaching sound conclusions.

Plan, assign, direct, review, and evaluate the work of others.

Perform a variety of responsible traffic and transportation engineering functions.

Perform required traffic/transportation studies, and analyses.

Identify, analyze, and develop workable solutions to traffic problems.

Understand community traffic concerns.

Explain technical traffic engineering information to nonprofessionals.

Write clear, concise and effective reports, letters, or memos.

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 professional traffic engineering experience including one year of supervisory or lead responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil and/or traffic engineering or a related field. A Master's Degree in Transportation is desirable.

License or Certificate:

Possession of a valid Certificate of Registration as a Traffic Engineer issued by the California State Board of Registration for Professional Engineers.

Possession of, or ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office environment; occasionally travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; travel to and from various locations; attending meetings; and using a personal computer and related office equipment.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-136**

**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 following classification, formerly titled Detective:

Police Detective

This classification is being amended as a result of the updating of the job specification in preparation of opening a recruitment. The specification for the classification of Police Detective (Range 312), 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 March 11, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
NO. 7110

POLICE DETECTIVE

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 law enforcement and crime prevention work; to perform investigative work; to participate in and provide support and assistance to special crime prevention and enforcement programs; and to perform a variety of technical and administrative tasks in support of the department.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

Exercises functional and technical supervision over sworn and non-sworn personnel.

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

Essential Functions:

Collect, process, photograph and present evidence using scientific techniques including fingerprints, fibers, blood, and related physical evidence.

Conduct a variety of criminal investigations involving crimes against persons and property, auto theft, white collar crime, and narcotics; gather evidence and prepare cases for prosecution.

Identify suspects; conduct interviews and interrogations; apprehend and arrest offenders.

Contact and interview victims and witnesses; preserve and investigate crime scenes.

Conduct covert, undercover investigations as assigned.

Contact and cooperate with other law enforcement agencies in matters relating to the apprehension of offenders and the investigation of offenses.

Assist in the performance of special investigative and crime prevention duties as required.

Prepare reports on arrests made, activities performed and unusual incidents observed.

Make arrests as necessary; interview victims, complainants and witnesses; interrogate suspects; administer polygraph tests; gather and preserve evidence; testify and present evidence in court.

Serve arrest and search warrants within the department and with outside agencies; remain current on laws and procedures required for processing warrants.

Perform a wide variety of laboratory tests and procedures including those related to narcotics testing; act as Department photographer; testify in court as an expert witness.

Gather crime related intelligence information and conduct background investigations; coordinate information and activities with outside agencies and jurisdictions.

Investigate juvenile related crimes including child abuse and juvenile narcotics; coordinate youth services with outside agencies and organizations including local school districts; conduct community presentations and instruct assigned classes.

Operate applicable computer systems; enter and retrieve information; assess bank records.

Conduct personnel recruitment background investigations; interview potential job candidates and references; administer voice stress analysis tests.

Give oral presentations at schools, clubs and other community organizations.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Police methods and procedures including investigation and identification techniques.

Criminal law and criminal procedure with particular reference to the apprehension, arrest and custody of persons committing misdemeanors and felonies, including rules of evidence pertaining to the seizure and preservation of evidence.

Offensive and defensive weapons nomenclature and theory.

Self defense tactics.

Interviewing and interrogation techniques.

Ability to:

Analyze situations quickly and objectively, and determine and take emergency action.

Understand and carry out oral and written instructions.

Communicate effectively, both orally and in writing.

Learn the operation of standard equipment and facilities required in the performance of assigned tasks including a computer.

Learn standard broadcasting procedures of a police radio system.

Learn to prepare search warrants.

Meet the physical requirements established by the Department including medium-heavy lifting up to 75 lbs.

Learn to cultivate well placed informants in the civilian population.

Use and care for firearms.

Prepare accurate and grammatically correct written reports.

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 four years of increasingly responsible full-time sworn law enforcement experience, two of which must be with Modesto Police Department .

OR

Three years of full-time sworn law enforcement experience with Modesto Police Department.

Training:

Equivalent to the completion of the twelfth grade supplemented by specialized training in police science, criminology or a related field. An Associate of Arts degree is desirable.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a P.O.S.T. Basic Certificate.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating a personal computer and other office equipment and vehicles.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-137**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PRC TO DEVELOP MDC COMMUNICATION SOFTWARE FOR MODESTO POLICE DEPARTMENT MOBILE DATA COMPUTERS.

WHEREAS, The City of Modesto currently uses Aether's (formerly Cerulean) mobile data computer software (MDC) in ten of the fleet of sixty police vehicles, to communicate between the Stanislaus Regional 911 Center and the Modesto Police Department mobile computer units in its police vehicles, and

WHEREAS, the current software, provided by Aether, has several performance problems which is due to gaps in functionality between the Stanislaus Regional 911 vendor PRC and the City's current Aether provided software, and

WHEREAS, the problems were brought to the attention of the MDC software provider Cerulean (now Aether) but no resolution to the problem has been provided, and

WHEREAS, the City attempted to negotiate with Aether to correct the problems but was informed their product design did not allow for Modesto's requests without a costly rewrite of their system, and

WHEREAS, The Police Department contacted other agencies and vendors in search for alternatives to Aether's product. and

WHEREAS, the MPD and IT Department developed a detailed requirement specification that was competitively bid, and

WHEREAS, PRC was the only vendor to meet and exceed all the City's requirements including correcting the messaging issue, determined as an officer safety issue and was the lowest responsive bidder, and

WHEREAS The Safety and Communities Committee met on March 3rd, 2003 and supported the execution of a contract with PRC to develop MDC communication software for Modesto Police Department Mobile Data Computers to go to Council for the full review, and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it authorizes the City Manager to execute a contract with PRC to develop MDC communication software for Modesto Police Department Mobile Data Computers.

BE IT FURTHER RESOLVED The Police Department currently has \$148,805 encumbered under purchase order 02-93082 and it intends to unencumber these funds to pay for this project. If the Police Department is unable to unencumber these funds they will try to locate additional funding sources

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-138**

**A RESOLUTION RESCINDING RESOLUTION NO. 2003-119 WHICH
AUTHORIZED MAYOR SABATINO TO SEND A LETTER TO THE STATE
AUDITOR CONTROLLER REQUESTING AN AUDIT WITH REGARD TO
STANISLAUS COUNTY'S POSSIBLE OVERCHARGE OF TIPPING FEES AT
THE FINK ROAD LANDFILL.**

WHEREAS, on March 4, 2003 the City Council authorized Mayor Sabatino to send a letter to the State Auditor Controller requesting an audit with regard to Stanislaus County's possible overcharge of tipping fees at the Fink Road Landfill and other related matters; and

WHEREAS, the letter was not to be sent until the Council had heard an oral report from Stanislaus County's Chief Executive Officer, Reagan Wilson; and

WHEREAS, on March 11, 2003, the City Council did hear an oral report from Reagan Wilson concerning the issues that were to be the subject of the audit.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that resolution no 2003-119 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating
O'Bryant

NOES: Councilmembers: Mayor Sabatino

ABSENT: Councilmembers: Jackman

ATTEST: Jean Zahr
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-139**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO RE-
ISSUE A REQUEST FOR PROPOSAL (RFP) FOR FUEL CARDLOCK
SERVICES**

WHEREAS, the proposals received for Fuel Cardlock Services were opened at 11:00 a.m. on May 14, 2002, in the office of the City Clerk, and

WHEREAS, out of twenty-seven (27) vendors solicited only two (2) responsive proposals were received, and

WHEREAS, one of the responsive proposers alleged that the proposal process was flawed, and

WHEREAS, in November of 2002, by Resolution No. 2002-589, Council authorized rejecting all bids and re-issuing a new Request for Proposal (RFP) with changes to the specifications and evaluation criteria in hopes of receiving a more competitive response, and

WHEREAS, based on direction from the Finance Committee, the following changes to specifications shall be incorporated into the new RFP for Fuel Cardlock Services:

- Contract term will be for three (3) years with the option of two (2) one year extensions.
- A proposers' conference will be held to address any questions regarding the content of the RFP.
- The pricing index used will be OPIS Unbranded Low
- Fuel Sites will be broken down by number of islands and number of nozzles for each fuel type at each island.
- Reporting will entail giving a cost estimate on what it will cost to have the proposers reporting system interface with the City's reporting system.
- Proposers will be required to meet with City staff on a quarterly basis to perform invoice line audits to ensure pricing accuracy and contract compliance.

and,

WHEREAS, new Award Criteria and Weighting shall be as follows:

<u>Criteria</u>	<u>Weighting</u>
Relevant Experience	5
Company Background	5
Fuel Sites/Hours of Operations	30
Auditing, QA, Reporting	25
Pricing	35

and,

WHEREAS, an evaluation committee comprised of representatives from the Fleet and Purchasing Divisions as well as subject experts from other public agencies will evaluate the proposals based on the evaluation criteria, and

WHEREAS, a member of Council and the City's internal auditor will also be invited to observe the evaluation process, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases exceeding \$50,000 for material and equipment of this type to be formally bid, and

WHEREAS, the re-issuance of a formal RFP for Fuel Cardlock Services will conform to MMC 8-3.203, and

WHEREAS, at its meeting on December 12, 2002, the Finance Committee fully supported the issuance of a new Request for Proposal (RFP), and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby authorizes the Purchasing Supervisor to re-issue a Request for Proposal (RFP) for Fuel Cardlock Services with modifications to the specifications and evaluation criteria as set forth in this Resolution, except that the pricing index will be Opus Low, and;

BE IT FURTHER RESOLVED that staff is directed to implement a process providing for a protest procedure prior to the bid award.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-140**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND ROBERT E. COURTNEY FOR THE ACQUISITION OF
PROPERTY, BEING A PORTION OF ASSESSORS PARCEL NO. 077-3309, FOR
THE SYLVAN AVENUE WIDENING PROJECT**

WHEREAS, as part of the City Council policy to reduce “bottlenecks” on major streets, the City Council of the City of Modesto approved the widening of Sylvan Avenue, east of Bob’s Way, per the Capital Improvement Program project list in Fiscal Year 2000-2001, and

WHEREAS, right of way needs to be acquired for this widening project, and

WHEREAS, an agreement is needed for the acquisition of the needed right of way.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and Robert E. Courtney for the acquisition of property, being a portion of Assessors Parcel No. 077-3309, for the Sylvan Avenue widening project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager on behalf of the City of Modesto 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 March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-141

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF PROPERTY OWNED BY ROBERT E. COURTNEY, BEING A PORTION OF ASSESSORS PARCEL NO. 077-33-09, FOR THE WIDENING OF SYLVAN AVENUE, EAST OF OAKDALE ROAD

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 right of way from Robert E. Courtney, being a portion of Assessors Parcel No. 077-3309 for the Sylvan Avenue Widening Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for a Grant Deed for the acquisition of property owned by Robert E. Courtney, Assessors Parcel No. 077-3309 for the Sylvan Avenue Widening Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-142**

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND VARNI BROTHERS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, INDIVIDUALLY, AND ALSO IN JOINT OWNERSHIP WITH DAVID J. MARTINI AND BEVERLY T. MARTINI, TRUSTEES OF THE MARTINI REVOCABLE TRUST UNDER INSTRUMENT DATED APRIL 1, 1996 FOR ASSESSORS PARCEL NOS. APN: 101-02-15; 101-02-16 AND 101-02-03 FOR THE ACQUISITION OF PROPERTY FOR THE BUS MAINTENANCE FACILITY PROJECT

WHEREAS, on March 28, 2000, the City Council of the City of Modesto approved the Bus Maintenance Facility Project (“Project”) to expand the maintenance capabilities for the City’s bus fleet, and

WHEREAS, certain real properties needed to be acquired for said Project which properties are identified as Assessor’s Parcel Nos: 101-02-15; 101-02-16 and 101-02-03, and which properties are owned by Varni Brothers, LLC, a California Limited Liability Company, individually, and also in joint ownership with David J. Martini and Beverly T. Martini, trustees of the Martini Revocable Trust under Instrument dated April 1, 1996 (“Owners”), and

WHEREAS, a certain real property needs to be exchanged and deeded from the City of Modesto to some or all of said Owners which property is identified as Assessor’s Parcel Nos: 105-47-08, and

WHEREAS, an agreement is needed for the acquisition and exchange of the needed real properties.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and Varni Brothers, LLC, a California Limited Liability Company, individually, and also in joint ownership with David J.

Martini and Beverly T. Martini, trustees of the Martini Revocable Trust under Instrument dated April 1, 1996 for the Bus Maintenance Facility project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager on behalf of the City of Modesto 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 March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-143**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ACCEPTANCE FORMS FOR GRANT DEEDS FOR THE ACQUISITION OF PROPERTIES OWNED BY VARNI BROTHERS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, INDIVIDUALLY, AND ALSO IN JOINT OWNERSHIP WITH DAVID J. MARTINI AND BEVERLY T. MARTINI, TRUSTEES OF THE MARTINI REVOCABLE TRUST UNDER INSTRUMENT DATED APRIL 1, 1996 FOR ASSESSORS PARCEL NOS. APN: 101-02-15; 101-02-16 AND 101-02-03 FOR THE BUS MAINTENANCE FACILITY 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 from Varni Brothers, LLC, a California Limited Liability Company, individually, and also in joint ownership with David J. Martini and Beverly T. Martini, Trustees of the Martini Revocable Trust under Instrument dated April 1, 1996 for Assessors Parcel Nos. APN: 101-02-15; 101-02-16 and 101-02-03 for the Bus Maintenance Facility Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign Certificates of Acceptance on behalf of the City of Modesto for Grant Deeds for the acquisition of property for the Bus Maintenance Facility as follows:

1. APN: 101-02-15 Owners: Varni Brothers, LLC, a California Limited Liability Company and David J. Martini and Beverly T. Martini, Trustees of the Martini Revocable Trust under Instrument dated April 1, 1996
2. APN: 101-02-16 and 101-02-03 Owners: Varni Brothers, LLC, a California Limited Liability Company.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized and directed to sign any and all documents related to the sale and/or purchase of real property on behalf of the City of Modesto as it is required for the acquisition/exchange of properties for the Bus Maintenance Facility Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-144**

**A RESOLUTION ORDERING THE ENGINEERING AND TRANSPORTATION
DIRECTOR TO PREPARE AND FILE AN ANNUAL REPORT FOR
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY
CREEK MEADOWS SUBDIVISION 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 order the engineer 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 Subdivision Nos. 1-6 the Engineering and Transportation Director, 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 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-145**

A RESOLUTION ORDERING THE ENGINEERING AND TRANSPORTATION DIRECTOR TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISION NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS NO. 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 Subdivision Units No. 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 order the engineer 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 Subdivision Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivision Units No. 1 & 2, the Engineering and Transportation Director, 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 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-146**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE DAVANTE VILLAS
PHASE I SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA,
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION, AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, DAVANTE VILLAS, a California Limited Partnership, is the subdivider of the Davante Villas Phase I Subdivision, and

WHEREAS, DAVANTE VILLAS, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$1,046,900.00 and \$523,450.00, respectively, and

WHEREAS, DAVANTE VILLAS, has filed a warranty bond in the amount of \$104,700.00 to guarantee improvements in the Davante Villas Phase I Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed, to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in Davante Villas Phase I Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$1,046,900.00 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 \$523,450.00 sixty (60) days following the filing 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 improvements in the amount of \$104,700.00 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 25th day of March, 2003, by Councilmember Frohman, 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:	Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad, Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-147**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE DAVANTE VILLAS
PHASE II SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION, AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, ROBERT D. CALCAGNO, an unmarried man, and DAVANTE VILLAS L.P., a California Limited Partnership, are the subdividers of the Davante Villas Phase II Subdivision, and

WHEREAS, ROBERT D. CALCAGNO, and DAVANTE VILLAS L.P., have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$11,385.00 and \$5,692.50, respectively, and

WHEREAS, ROBERT D. CALCAGNO, and DAVANTE VILLAS L.P., have filed a warranty bond in the amount of \$1,140.00 to guarantee improvements in the Davante Villas Phase II Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed, to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in Davante Villas Phase II Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$11,385.00 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 \$5,692.50 sixty (60) days after the filing date 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 improvements in the amount of \$1,140.00 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 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-148**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE DAVANTE VILLAS
PHASE III SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION, AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, ROBERT D. CALCAGNO, an unmarried man, and DAVANTE VILLAS L.P., a California Limited Partnership, are the subdividers of the Davante Villas Phase III Subdivision, and

WHEREAS, DAVANTE VILLAS L.P., has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$840,967.00 and \$420,483.50, respectively, and

WHEREAS, DAVANTE VILLAS L.P., has filed a warranty bond in the amount of \$84,100.00 to guarantee improvements in the Davante Villas Phase III Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed, to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in Davante Villas Phase III Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$840,967.00 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 \$420,483.50 sixty (60) days after the filing date 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 improvements in the amount of \$84,100.00 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 25th day of March, 2003, by Councilmember Frohman, 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: Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-149**

A RESOLUTION APPROVING A SUPPLEMENTAL AGREEMENT BETWEEN COVANTA STANISLAUS, INC., THE COUNTY OF STANISLAUS, THE CITY OF MODESTO, AND PACIFIC GAS AND ELECTRIC COMPANY; APPROVING A SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS BETWEEN COVANTA STANISLAUS, INC., THE COUNTY OF STANISLAUS, THE CITY OF MODESTO, AND PACIFIC GAS AND ELECTRIC COMPANY; AND AUTHORIZING THE CITY MANAGER TO EXECUTE BOTH AGREEMENTS.

WHEREAS, in 1985, the City and County (the "Contracting Communities") formed a Joint Powers Agency and entered into a Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) to build a waste-to-energy facility, and

WHEREAS, on August 20, 1985, Pacific Gas and Electric Company (PG&E) entered into a Power Purchase Agreement with Stanislaus Waste Energy Company, now known as Covanta Stanislaus, and

WHEREAS, pursuant to this Agreement, Covanta is required to sell, and PG&E is obligated to pay for, electrical capacity and to purchase electrical energy generated by Covanta at its waste to energy facility in Stanislaus County through and including December 31, 2009, and

WHEREAS, the Contracting Communities are entitled to receive 90 percent of the monies paid by PG&E pursuant to the terms of the Contract, and

WHEREAS, a dispute arose as to the amount of money due and payable under the Power Purchase Agreement, and a Complaint, Cross Complaint, and Appeal were filed by the parties in relation to this matter, and

WHEREAS, the parties now wish to resolve the disputes and claims arising out of and relating to said Complaint, Cross Complaint, and Appeal, and

WHEREAS, the parties have negotiated a Settlement Agreement and General Release of Claims, which, upon execution, would resolve the disputes and claims, and

WHEREAS, in April, 2001, PG&E filed a Chapter 11 Bankruptcy Petition in the U.S. Bankruptcy Court for the Northern District of California, and

WHEREAS, as of February, 2001, PG&E had not paid for electricity provided to it by the Facility for the period December 1, 2000 through April 6, 2001, and

WHEREAS, the amount PG&E owed the Contracting Communities and Covanta for that period was \$7,794,659.46, and

WHEREAS, PG&E's bankruptcy filing put payment of this amount owed to the Contracting Communities and Covanta on hold until its bankruptcy was resolved, and

WHEREAS, PG&E did resume normal payments to the project once it had filed bankruptcy, and has remained current on its payments since that time, and

WHEREAS, Bankruptcy Counsels for the Contracting Communities and Covanta have now negotiated new terms to a proposed Supplemental Agreement with PG&E that will enable the facility to receive the money owed by PG&E in six (6) monthly installments, and

WHEREAS, PG&E has also agreed to pay 5% per annum interest on the amount owed, and

WHEREAS, these payments would begin 15 days after the execution of the Supplemental Agreement, and

WHEREAS, it will be of benefit of the Contracting Communities to receive these funds in a timely manner.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City hereby approves the Settlement Agreement and General Release of Claims

attached as **Exhibit A** hereto and the Supplemental Agreement attached as Exhibit B hereto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute these Agreements on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF CLAIMS

This Settlement Agreement and General Release of Claims ("Settlement Agreement") dated _____, 2003, is made by and between COVANTA STANISLAUS, INC. ("Covanta"), County of Stanislaus ("County"), City of Modesto ("Modesto") and Pacific Gas & Electric Company ("PG&E"). Covanta, County, Modesto and PG&E are referred to herein collectively as the "Parties" or singularly as a "Party".

WITNESSETH:

- A. WHEREAS, on August 20, 1985, PG&E entered into a Power Purchase Agreement for Long-Term Energy and Capacity (the "Contract") with Stanislaus Waste Energy Company; and
- B. WHEREAS, pursuant to said Contract, Covanta, as successor-in-interest to Stanislaus Waste Energy Company, is required to sell and PG&E is obligated to pay for electrical capacity and to purchase electrical energy generated by Covanta at its waste to energy facility in Stanislaus County through and including December 31, 2009; and
- C. WHEREAS, the County and Modesto, in exchange for having assisted in the financing of the waste to energy facility, are entitled to receive the benefit of a certain percentage of the monies paid by PG&E pursuant to the terms of the Contract; and
- D. WHEREAS, a dispute has arisen as to the amount of money due and payable under the terms of the Contract; and
- E. WHEREAS, on October 31, 1997, the County and Modesto filed a Complaint for Declaratory Relief in the Superior Court for the County of Stanislaus, State of California, entitled *County of Stanislaus, a political subdivision of the State of California, and City of Modesto, a municipal corporation, plaintiffs, v. Pacific Gas & Electric Company, a Public Utility; Ogden Martin Systems of Stanislaus, a California*

Corporation; and Does 1 through 20, inclusive, defendants, Stanislaus Superior Court No. 156011 (hereinafter referred to as the "Action"); and

F. WHEREAS, on March 9, 1998, the matter was ordered transferred to and added to a Coordinated Proceeding pending in the Superior Court for the City and County of San Francisco entitled *In Re Power Purchase Agreement Cases*, Judicial Counsel Coordinated Proceeding No. 3241; and

G. WHEREAS, on or about May 22, 1998, PG&E filed a Cross-Complaint in the Judicial Counsel Coordinated Proceeding No. 3241, entitled *Pacific Gas & Electric Company, a California Corporation, Cross-Complainant, v. Ogden Martin Systems of Stanislaus, Inc., a California Corporation, and Roes 1 through 100, inclusive, Cross-Defendants* (the "Cross-Complaint"); and

H. WHEREAS, on July 21, 1998, Judge Thomas J. Mellon, Jr., of the San Francisco Superior Court issued an Order sustaining PG&E's Demurrer to the First Amended Complaint of the County and Modesto without leave to amend; and

I. WHEREAS, on September 14, 1998, the Judge Mellon signed an Order of Dismissal and Judgment thereon in favor of PG&E as to the First Amended Complaint of the County and Modesto; and

J. WHEREAS, on November 12, 1998, the County and Modesto filed a Notice of Appeal (the "Appeal"); and

K. WHEREAS, PG&E filed a Chapter 11 bankruptcy petition pursuant to Title 11, United States Code §§101, *et seq.* (United States Bankruptcy Court for the Northern District of California, San Francisco Division (the "PG&E Bankruptcy Court"), case No. 01-20923-DM ("PG&E Bankruptcy Case")) on April 6, 2001; and

L. WHEREAS, Covanta filed a Chapter 11 bankruptcy petition pursuant to Title 11, United States Code §§101, *et seq.* (United States Bankruptcy Court for the Southern District of New York (the "Covanta

Bankruptcy Court"), jointly administered under case No. 02-40826 (CB) ("Covanta Bankruptcy Case") on April 1, 2002; and

M. WHEREAS, the Appeal filed by County and Modesto is still pending as is PG&E's Cross-Complaint in the Coordinated Proceedings; and

N. WHEREAS, the Parties wish to resolve the disputes and claims arising out of and relating to the Action, the Appeal, and the Cross-Complaint in exchange for the mutual promises and considerations set forth herein; and

O. WHEREAS, the Parties are concurrently executing a Supplemental Agreement ("Supplemental Agreement");

NOW, THEREFORE, in consideration of the premises described above and the terms and conditions set forth below, the Parties hereby agree as follows:

1. The County and Modesto expressly agree that, within fifteen (15) calendar days after the first date that all orders of the PG&E Bankruptcy Court and the QF Bankruptcy Court approving this Settlement Agreement and the Supplement Agreement are final and non-appealable, they will voluntarily dismiss the Appeal currently pending in the Court of Appeal of the State of California, First Appellate District No. 80-85074, with prejudice, provided, however, that it is expressly agreed by PG&E, on behalf of itself, its assigns, parents, subsidiaries, successors, representatives and trustees, that the Order sustaining the Demurrer of PG&E to the First Amended Complaint and the Judgment of the trial court thereon upon which the Appeal is based, shall not have any issue preclusive effect, whether through the application of doctrine of collateral estoppel, the doctrine of res judicata or any other means, on the issue of the standing of the County and/or Modesto to assert any future claims, including claims for declaratory relief, relating to the Power Purchase Agreement identified herein as the "Contract". The County and Modesto expressly represent and warrant to PG&E and County that they are the sole holders of all right, title and interest to the claims raised by them in the Appeal.

2. **PG&E** expressly represents and warrants to **Covanta, County and Modesto** that: (a) it is the sole holder of all right, title and interest to the claims raised in the **Cross-Complaint** in Judicial Counsel Coordinated Proceeding No. 3241; and (b) **PG&E** has not assigned, pledged or otherwise transferred its right, title and interest in the **Cross-Complaint** (or any right or claim to receive in its proceeds or distributions thereon to any third party or parties, for any purpose, whether it is an outright transfer or a transfer for security). **PG&E** further agrees to dismiss with prejudice the **Cross-Complaint** within fifteen (15) calendar days after the first date that all orders of the **PG&E Bankruptcy Court** and the **QF Bankruptcy Court** approving this **Settlement Agreement** and the **Supplement Agreement** are final and non-appealable.

3. Each of the **Parties** agrees to waive and forego any and all claims for attorneys' fees and costs as to one another relating to the **Action**, the **Appeal**, the **Cross-Complaint** or any other aspect of the Judicial Counsel Coordinated Proceeding No. 3241.

4. This **Settlement Agreement** is subject to approval of the **PG&E Bankruptcy Court** and the **Covanta Bankruptcy Court** and shall not become effective until the date of entry of the later in time of the orders of the **PG&E Bankruptcy Court** and the **Covanta Bankruptcy Court** approving this **Settlement Agreement** and the **Supplemental Agreement**.

5. By the initialing of each one's authorized representative below, each of the **Parties** agrees to waive the application of the provisions of Civil Code §1542, which provides as follows:

A general release does not extend the claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

_____ **County**
 _____ **City**
 _____ **PG&E**
 _____ **Covanta**

IT IS AGREED AND UNDERSTOOD by the Parties that each one is waiving any and all claims, known and unknown, that each one presently or in the past has or had or may have, or may have had arising out of or relating to the **Contract**, except for the following:

(a) This waiver of Civil Code §1542, as well as the other provisions of this **Settlement Agreement**, shall not apply to any claims arising from or relating to the **Contract** that may arise after the date of this **Agreement**;

(b) This waiver of §1542, as well as the other provisions of this **Settlement Agreement**, do not apply to any claims arising out of or relating to the **Assumption Agreement** of July 13, 2001 between **PG&E** and **Covanta** or the **Supplemental Agreement** dated _____, 2002, between and among **PG&E**, **Covanta**, **County** and **Modesto**; and

(c) The waiver of Civil Code §1542, as well as the other provisions of this **Settlement Agreement**, shall not apply to any claims arising out of or relating to the **Contract** that are between the **County** or **Modesto** on one hand and **Covanta** on the other, except for any claims arising out of or relating to the **Fixed Price Period** dispute described in the **First Amended Complaint** filed in the **Action**, the proofs of claim filed in the **PG&E Bankruptcy Case**, and the negotiation and execution of this **Agreement**.

6. Each Party shall pay its own expenses, professional fees and other costs connected with or associated with the negotiation and execution of this **Settlement Agreement** except that in any action to enforce or interpret the terms of this **Settlement Agreement**, the prevailing Party or Parties shall be entitled to recover all costs and expenses (including attorneys' fees) incurred in connection with or arising out of such action.

7. This **Settlement Agreement** made and entered into in the State of California shall in all respects be interpreted and governed by the laws of the California, without regard to principles of conflicts of law.

8. This Settlement Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto, including any trustee appointed in the PG&E Bankruptcy Case or the Covanta Bankruptcy Case.

9. Any modification or amendment to this Settlement Agreement must be in writing and must be signed and dated by the Parties, and must expressly state that it is intended to be an amendment to or modification of this Settlement Agreement.

10. Counsel for the respective Parties have reviewed and participated in the drafting of this Settlement Agreement. Consequently, the principle of construction of contracts that ambiguity shall be resolved against the drafter shall not be used or applied in the interpretation of this Settlement Agreement.

11. Each Party hereby represents and warrants to each of the Parties that: (a) the execution of this Settlement Agreement has been duly authorized by all necessary corporate, governmental, shareholder and similar actions; (b) this Settlement Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (c) the execution and delivery of this Settlement Agreement and the performance by such Party of its obligations hereunder do not and will not conflict with, contravene or breach, any law, judgment, order or material contract applicable to or binding on such Party.

12. This Settlement Agreement may be executed in separate counterparts, each of which when executed shall be an original by all of which, taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by or on behalf of Covanta, the County, Modesto and PG&E as of the date first written above by duly authorized representatives.

**Covanta Stanislaus, Inc.,
A California Corporation**

**Pacific Gas and Electric Company,
A California Corporation**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

County of Stanislaus

City of Modesto

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT E

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, dated _____, 2003, is made by and between COVANTA STANISLAUS, INC. (PG&E Log No. 16P052) ("QF"), COUNTY OF STANISLAUS (the "County"), CITY OF MODESTO ("Modesto") and PACIFIC GAS AND ELECTRIC COMPANY ("PG&E"). QF, County, Modesto and PG&E are sometimes referred to herein as the "Parties" or singularly as a "Party".

WITNESSETH:

A. WHEREAS, PG&E filed a Chapter 11 Bankruptcy Petition pursuant to Title 11 United States Code Sections 101, *et. seq.* ("Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of California, San Francisco Division (the "PG&E Bankruptcy Court") on April 6, 2001; and

B. WHEREAS, QF filed a Chapter 11 Bankruptcy Petition pursuant to Title 11 United States code Sections 101, *et. seq.* ("Bankruptcy Code") in the United States Bankruptcy Court for the Southern Division of New York (the "Covanta Bankruptcy Court") on April 1, 2002; and

C. WHEREAS, QF and PG&E are parties to that certain Agreement dated as of July 13, 2001 ("Assumption Agreement") respecting, among other things, the assumption by PG&E of that Power Purchase Agreement for Long-Term Energy and Capacity Between Stanislaus Waste Energy Co. and Pacific Gas and Electric Company listed therein (the "Contract") and such Assumption Agreement has been approved by order of the PG&E Bankruptcy Court (the "Assumption Order"); and

D. WHEREAS, PG&E's Chapter 11 Bankruptcy case, Case No. 01-20923-DM ("PG&E Bankruptcy Case"), remains pending in the PG&E Bankruptcy Court; and

E. WHEREAS, QF's Chapter 11 Bankruptcy case, jointly administered under Case No. 02-40826(CB) (the "Covanta Bankruptcy Case") remains pending in the Covanta Bankruptcy Court;

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and

F. WHEREAS, pursuant to the Assumption Order, PG&E assumed the Contract pursuant to 11 U.S.C. § 365(b) and (d)(2) and Rules 6006, 9014 and 9019 of the Federal Rules of Bankruptcy Procedure; and

G. WHEREAS, starting on or about February 2, 2001 (the "Initial Default Date"), PG&E failed to pay the full amount due to QF under the Contract for deliveries of energy and capacity for the period between December 1, 2000 and April 6, 2001; and

H. WHEREAS, the principal amount of payables for QF is set forth in Attachment A to the Assumption Agreement for a total principal amount due QF of Seven Million Seven Hundred Ninety-Four Thousand Six Hundred Fifty-Nine Dollars and Forty-Six Cents (\$7,794,659.46), excluding interest thereon (the "Prepetition Payables"); and

I. WHEREAS, the Assumption Agreement provides that the Interest Rate, as defined in the Assumption Agreement, should be negotiated in good faith by the Parties; and

J. WHEREAS, the Parties have negotiated the provisions set forth in this Supplemental Agreement respecting the Interest Rate and payment of the Prepetition Payables; and

K. WHEREAS, the Parties are concurrently executing a Settlement Agreement and General Release of Claims ("Settlement Agreement"); and

L. WHEREAS, the Parties wish to resolve certain preexisting litigation pending in the California Court of Appeal, First Appellate District, and the California Superior Court in San Francisco;

NOW, THEREFORE, in consideration of the premises described above and the terms and conditions set forth below, the Parties hereby agree as follows:

1. Definitions.

Any capitalized term not defined herein shall have the meaning ascribed to it in the **Assumption Agreement**.

2. Calculation and Rate of Interest.

The outstanding principal balance of the **Prepetition Payables** shall bear interest at a rate of five percent (5%) per annum (the "Interest Rate") from the respective due dates of the principal amounts set forth on Attachment A to the **Assumption Agreement** until paid. Interest shall be calculated on the basis of a 365-day year with the actual number of days (excluding the first day and including the last day) occurring during the period for which interest is payable.

3. Payment Schedule.

(a) Interest. All accrued prepetition and postpetition interest due on the **Prepetition Payables**, shall be paid within fifteen (15) calendar days after the first date that all orders of the **PG&E Bankruptcy Court** and the **QF Bankruptcy Court** approving this **Supplemental Agreement** and the **Settlement Agreement** are final and non-appealable.

(b) Principal. Notwithstanding the terms of any plan of reorganization filed by **PG&E** or by any other Party in the **PG&E Bankruptcy Case**, **PG&E** shall pay the outstanding principal balance of the **Prepetition Payables** in six (6) equal monthly installments on the last **PG&E** business day of each month commencing _____, 2003 and continuing at the end of each month thereafter until paid in full.

(c) Separate Payments. All payments of the sums set forth in Attachment A to the **Assumption Agreement** and the principal and interest due hereunder shall be made in accordance with all agreements by and among the Parties providing for payment of any amounts due and owing by **PG&E** pursuant to the **Power Purchase Agreement for Long Term Energy and Capacity** (the

"Contract") with the Stanislaus Waste Energy Co. which were in effect as of April 5, 2001 (unless designated to the contrary in writing by QF, the County and Modesto at least one (1) week in advance of the payment date), in the amounts set forth in Exhibit 1 attached hereto. Each of the payments above is subject to adjustment for rounding errors (either upward or downward) of up to but no more than one dollar(\$1.00).

(d) Due on Plan Effective Date. If the Plan Effective Date of any plan confirmed in the PG&E Bankruptcy Case shall occur before the Prepetition Payables and all interest accrued thereon have been paid in full, the remaining balance of the Prepetition Payables and all interest accrued thereon shall be paid on such Plan Effective Date.

(e) Setoffs. To the extent that PG&E has or claims to have any right to assert any existing or future right of setoff as a defense to the reduction of any of its obligations to pay the Prepetition Payables and/or interest thereon, PG&E hereby waives such right of setoff with respect to such obligations, but only with respect to such obligations. Provided PG&E is not in default of its payment obligations under this Supplemental Agreement, QF shall not setoff any obligation owed to PG&E against such Party's right to receive payments under this Supplemental Agreement. Except as set forth above, each Party retains any and all setoff rights it may have, if any, under the Contract.

(f) Monthly Payments Under the Contract. For deliveries starting on February 1, 2002, QF hereby waives any right that it might have pursuant to California Public Utilities Commission ("CPUC") Decision 01-03-067 to receive semi-monthly payments in lieu of monthly payments pursuant to the Contract. All payments for deliveries starting on February 1, 2002 will be on a monthly billing cycle. Unless otherwise directed by the CPUC, PG&E shall make payments to QF within fifteen (15) days of the end of each monthly billing cycle.

(g) Other Terms. The right of QF to receive all payments hereunder shall be entitled to administrative expense priority under Bankruptcy Code Sections 503 and 507(a)(1). QF shall have standing and reserves the right to object or seek other relief in the PG&E Bankruptcy Court in the

event that PG&E's cash reserves fall below what is reasonably necessary to timely satisfy PG&E's postpetition obligations, including the obligations under this Supplemental Agreement. The obligations of PG&E under this Supplemental Agreement shall be binding on any trustee in a Chapter 7 or Chapter 11 bankruptcy case, and cannot be altered, amended or modified by any plan of reorganization or other order or ruling in the PG&E Bankruptcy Case.

4. Approval by County of Stanislaus and City of Modesto.

Pursuant to certain agreements by and among QF, the County and Modesto ("Fuel Supply Agreements"), transactions such as this Supplemental Agreement and the Settlement Agreement are subject to County and Modesto approval. The County and Modesto hereby certify that the appropriate governing body for each such entity has considered and approved this Supplemental Agreement and the Settlement Agreement.

5. Withdrawal of Claims.

Except for those administrative claims specifically provided for by Section 3(g) hereof, QF, the County and Modesto, and each of them, waive their respective right to file any Section 503 administrative expense claims based on services provided the PG&E estate through the date of this Supplemental Agreement. Furthermore, QF, the County, and Modesto, and each of them, agree to waive and withdraw any and all claims or proofs of claims each of them has filed in the PG&E Bankruptcy Case (including but not limited to Claims Nos. 8780, 9883 and 9884 filed by QF, Claim No. 12499 filed by the County, and Claim No. 12500 filed by Modesto) within fifteen (15) calendar days after the first date that all orders of the PG&E Bankruptcy Court and the QF Bankruptcy Court approving this Supplemental Agreement and the Settlement Agreement are final and non-appealable. QF, the County, and Modesto, and each of them, further agree to forego any rights each of them may have to amend such claims, or to file new claims.

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6. Dismissal of Appeal.

The County and Modesto expressly represent and warrant to PG&E that they are the sole holders of all right, title and interest to the claims raised by them in the appeal entitled *County of Stanislaus, a political subdivision of the State of California, and City of Modesto, a municipal corporation v. Pacific Gas & Electric Company, a Public Utility; Ogden Martin Systems of Stanislaus, a California Corporation; and Does 1 through 20, inclusive*, currently pending in the Court of Appeal of the State of California, First Appellate District (AO 89074) ("Appeal");

The County and Modesto agree that, within fifteen (15) calendar days after the first date that all orders of the PG&E Bankruptcy Court and the QF Bankruptcy Court approving this Supplemental Agreement and the Settlement Agreement are final and non-appealable, they will voluntarily dismiss the Appeal with prejudice; provided, however, that it is expressly agreed by PG&E, on behalf of itself, its assigns, parents, subsidiaries, successors, representatives, and trustees, that the judgment of the trial court upon which the Appeal is based shall not have any issue preclusive effect, whether through the application of the doctrine of collateral estoppel, the doctrine of res judicata or any other means, on the issue of the standing of the County and/or Modesto or their successors or assigns to assert any future claims, including claims for declaratory relief, relating to the Power Purchase Agreement identified herein as the "Contract".

It is further agreed and understood that each Party shall bear its respective costs and fees with respect to the Appeal and related proceedings before the Trial Court.

7. Dismissal of Cross-Complaint.

PG&E expressly represents and warrants to QF, County and Modesto that (a) it is the sole holder of all right, title and interest to the claims raised in the Cross-Complaint filed by PG&E against Ogden Martin Systems of Stanislaus, Inc. in the Judicial Council coordinated Proceeding No. 3241 before the Superior Court of California, County of San Francisco (the "Cross-Complaint"); and (b)

PG&E has not assigned, pledged, or otherwise transferred its right, title and interest in the Cross-Complaint (or any right or claim to received payments, proceeds, or distributions thereon) to any third party or parties for any purpose, whether as an outright transfer or as a transfer for security, PG&E further agrees to dismiss with prejudice the Cross-Complaint within fifteen (15) calendar days after the first date that all orders of the PG&E Bankruptcy Court and the QF Bankruptcy Court approving this Supplemental Agreement and the Settlement Agreement are final and non-appealable. The dismissal of the Appeal and the dismissal of the Cross-Complaint are also subject to the terms and conditions of the Settlement Agreement and General Release of Claims executed concurrently by the Parties hereto.

8. Bankruptcy Court Approval.

This Supplemental Agreement is subject to both PG&E Bankruptcy Court approval and QF Bankruptcy Court approval. This Supplemental Agreement shall not become effective until both the PG&E Bankruptcy Court and the QF Bankruptcy Court enter Orders approving this Supplemental Agreement. This Supplemental Agreement shall not become effective until both the PG&E Bankruptcy Court and the QF Bankruptcy Court enter orders approving this Supplemental Agreement and each of said orders becomes final. Covanta agrees to provide to counsel for PG&E and the City and County copies of any and all orders of the QF Bankruptcy Court approving this Supplemental Agreement and the Settlement Agreement and PG&E agrees to provide counsel for Covanta and the City and County copies of any and all orders of the PG&E Bankruptcy Court approving this Supplemental Agreement and the Settlement Agreement.

9. Default.

In the event that any payment required to be made under this Supplemental Agreement is not made on or before the date due, QF may make a motion to enforce this Supplemental Agreement or seek other appropriate relief before the PG&E Bankruptcy Court on seven (7) calendar days' notice. QF shall not be required to commence an adversary proceeding or other suit and may proceed by noticed motion on seven (7) calendar day's notice without the requirement of obtaining an order shortening time.

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QF reserves the right to seek, as appropriate relief, that the entire amount of the Prepetition Payables and all interest thereon should be accelerated as a result of such nonpayment. PG&E reserves the right to assert that acceleration is not appropriate.

10. Entire Agreement.

This Supplemental Agreement, together with the Assumption Agreement, sets forth the entire agreement between the Parties relating to the Interest Rate and the payment by PG&E of the Prepetition Payables relating to the assumption by PG&E of the Contract and the payment of the Prepetition Payables and supersedes and replaces any prior understanding, correspondence, commitments or agreement, whether oral or written concerning the subject matters of this Supplemental Agreement, except that it is agreed and understood that the terms of the Assumption Agreement and the Contract remain in full force and effect, and any conflict between this Supplemental Agreement and the Assumption Agreement and/or the Contract shall be resolved in favor of this Supplemental Agreement. Any modification or amendment to this Supplemental Agreement must be in writing and must be signed and dated by the Parties, and must explicitly state that it is intended to be an amendment to or modification of this Supplemental Agreement

11. Descriptive Headings.

The descriptive headings of this Supplemental Agreement are inserted for convenience of reference only and do not constitute a part of this Supplemental Agreement.

12. Expenses.

Each Party shall pay its own expenses, professional fees and other costs connected with or associated with the negotiation and execution of this Supplemental Agreement. In any action to enforce or interpret the terms of this Supplemental Agreement, the prevailing Party or Parties shall be entitled to recover all costs and expenses (including attorneys' fees and expenses) incurred in connection with or arising out of such action.

13. Governing Law.

This Supplemental Agreement is made and entered into in the State of California, and shall in all respects be interpreted and governed under the laws of California, without regard to principles of conflicts of law.

14. Binding Agreement.

This Supplemental Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto, including any trustee appointed in the PG&E Bankruptcy Case or the Covanta Bankruptcy Case.

15. Construction of Agreement.

Counsel for the respective Parties have reviewed and participated in the drafting of this Supplemental Agreement. Consequently, the principle of construction of contracts that ambiguities shall be resolved against the drafter shall not be used or applied in the interpretation of this Supplemental Agreement.

16. Representations.

Each Party hereby represents and warrants to each of the other Parties that (a) the execution of this Supplemental Agreement has been duly authorized by all necessary corporate, shareholder, official, public agency and similar actions; (b) this Supplemental Agreement has been duly executed and delivered and constitutes the legal valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (c) the execution and delivery of this Supplemental Agreement and the performance by such Party of its obligations hereunder do not and will not conflict with, contravene or breach, any law, judgment, order or material contract applicable to or binding on such Party or any of its properties or assets.

17. Transfer of Prepetition Payables.

QF expressly represents and warrants to PG&E: That the **Prepetition Payables** are to be paid in accordance with the terms of all agreements by and among QF, the County and Modesto which were in effect as of April 5, 2001 specifying, inter alia, the manner in which any amounts due and owing by PG&E pursuant to the Contract are to be paid (the "Agreements"). Accordingly, all payments due under this **Supplemental Agreement** shall be delivered by PG&E in accordance with said **Agreements**, unless and until PG&E receives notice of transfer from the QF, as well as a signed consent to the assignment executed by both the **County and Modesto** or their successors or assignees. Such notice shall be in writing to the attention of:

Director, Power Contracts
Pacific Gas and Electric Company
P.O. Box 770000, MC N12E
San Francisco, CA 94177
Fax: 415-973-9176

In the event that PG&E makes a payment of **Prepetition Payables** pursuant to the terms of said **Agreements** after the effective date of any transfer of right, title and interest in the **Prepetition Payables**, QF shall promptly cause such payment to be forwarded to the transferee of the right, title and interest in the **Prepetition Payables**, and indemnify and hold PG&E harmless from any claim, demand or action by the transferee to collect any such payment from PG&E.

18. Execution by Counterparts.

This **Supplemental Agreement** may be executed in separate counterparts, each of which when executed shall be an original, but all of which, taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this **Supplemental Agreement** has been duly executed by or on behalf of QF, the County, Modesto and PG&E as of the date first written above.

**COVANTA STANISLAUS, INC.,
A California Corporation**

**PACIFIC GAS AND ELECTRIC CO.,
A California Corporation**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

COUNTY OF STANISLAUS

CITY OF MODESTO

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-150**

WAS NOT USED

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-151**

A RESOLUTION APPROVING LICENSE AND ENVIRONMENTAL INDEMNITY AGREEMENTS WITH BEARD LAND IMPROVEMENT COMPANY IN THE AMOUNT OF \$2,790 PER MONTH AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS AND TO ENTER INTO RENTAL AGREEMENTS FOR A MODULAR BUILDING AND OTHER TEMPORARY SUPPORT FACILITIES FOR THE PURPOSE OF HOUSING A SATELLITE CORPORATION YARD AT 236 CODONI AVE

WHEREAS, for several years the City has sought sufficient funding to support design and construction of a new Bus and Vehicle Maintenance Facility and recently received a federal allocation to support the bulk of this project, and

WHEREAS, construction of the Bus and Vehicle Maintenance Facility will displace current uses in the City's Corporation Yard, and

WHEREAS, a Satellite Corporation Yard has been contemplated for a number of years due to space limitations at the existing Corporation Yard facility and to better support growth areas on the City's east and north sides, and

WHEREAS, staff has identified an optimal site for a temporary Satellite Corporation Yard in the Beard Industrial Tract at 236 Codoni Avenue, and

WHEREAS, the Codoni site is located on approximately 4 acres and has security, fencing and room for expansion, and

WHEREAS, Beard Land Improvement Company is prepared to lease the Codoni site on a month-to-month basis for the sum of \$2,790 per month, and

WHEREAS, development of a Satellite Corporation Yard at the Codoni Avenue location will require leasing modular and other temporary facilities, and

WHEREAS, the Economic Development Committee considered the possibility of developing a Satellite Corporation Yard at the Codoni Avenue site and recommended approval by the City Council at its January 13, 2003 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the License and Environmental Agreements for Lease of the Codoni Avenue facility as a Satellite Corporation Yard, copies of which are attached hereto as **Exhibits A and B** and authorizes the City Manager, or his designee, to execute the agreements.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to enter into Rental Agreements for a Modular Building and other temporary support facilities for the Codoni Avenue Satellite Yard.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

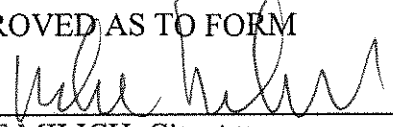
NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM


MIKE MILICH, City Attorney

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "License Agreement") is made as of March 25., 2003, the "Effective Date" by and between BEARD LAND IMPROVEMENT COMPANY, a California corporation ("Licensor"), and CITY OF MODESTO, a municipal corporation ("Licensee").

RECITALS

A. Licensor is the owner of that certain real property (A.P.N. 009 19 36) shown on Exhibit A attached hereto (the "Property").

B. For the purposes of this License Agreement, the "Business Use" means parking, occasional loading, unloading, repair and maintenance of commercial trucks and related truck-trailers owned and/or operated by Licensee and/or agents, representatives or contractors of Licensee ("Trucks"), but specifically excludes any fueling and servicing (including, without limitation, oil changes and lubrication work) of any Trucks, and any storage. For the purposes of this License Agreement, "Facilities" mean and include certain facilities, improvements and equipment of the Licensed Area.

C. Licensee desires to use on a non-exclusive basis that portion of the Property described in Exhibit B attached hereto and shown in the site map attached hereto as Exhibit C (the "Licensed Area") for the Business Use.

D. Licensor and Licensee desire to enter into this License Agreement to provide Licensee a personal, revocable license to use the Licensed Area for the Business Use subject to and in accordance with the terms and conditions contained herein, with the express understanding and agreement that this License Agreement is not intended to be, nor is it, a license coupled with an interest, nor is it intended to, nor does it, confer upon Licensee any exclusive rights of possession or occupancy whatsoever in connection with the Licensed Area.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. License. Subject to all the terms and conditions of this License Agreement, Licensee shall have from Licensor a non-exclusive, non-transferable, personal and revocable license (the "License") to use the Licensed Area only for the Permitted Uses.

2. License Consideration.

2.1 License Fee. Licensee shall pay Licensor a license fee (the "License Fee") in the amount of Two Thousand Ninety Dollars (\$2,790.00) per month. The License Fee shall be payable in advance. The first payment shall be due and payable on the Effective Date, and subsequent payments shall be made on or before the first day of each month thereafter until the termination or revocation of the License. Any

License Fee that is allocable to a partial calendar month shall be prorated using a 30-day month.

2.2 **Late Charge.** Licensee and Licensor agree that it would be impossible or extremely impracticable to determine the actual amount of damages Licensor would sustain in the event Licensee fails to pay the License Fee or any other License Consideration due under this License Agreement within the times required hereunder. Therefore, if Licensor fails to receive any License Fee or other License Consideration payable by Licensee on the due date therefor, then Licensee shall pay to Licensor a late charge equal to six percent (6%) of such amounts not paid by the due date therefor ("**Late Charge**") as liquidated damages to compensate Licensor for its administrative costs resulting from such nonreceipt. Receipt of any Late Charge shall not be deemed consent by Licensor to late payment, nor a waiver of Licensor's right to insist upon timely payment at any time, nor a waiver of any remedies to which Licensor is entitled as a result of the late payment of any License Consideration. Licensor may apply any payments received from Licensee to any obligations of Licensee then accrued.

2.3 **Late Interest.** If any payment of the License Fee or any other License Consideration (including without limitation any Late Charge above) is not received by Licensor by the date when due, the amount of such late payment shall bear interest until paid on an annualized basis at the rate of the lower of (i) the announced prime rate established by Wells Fargo Bank, N.A., in San Francisco, California, as of the date such sums are due; and (ii) the maximum interest rate allowed by law. Interest payable under this Section 2.3 shall be payable in addition to any Late Charge.

2.4 **Use of the Licensed Area After License Revocation or Termination.** If Licensee or any property attributable to Licensee remains on or about the Licensed Area after the revocation or termination of the License: (a) Licensee shall continue to be subject to all of Licensee's obligations under this License Agreement but shall not have any rights under this License Agreement; and (b) Licensee shall be a trespasser and at Licensor's election, shall be (i) liable for damages attributable to such trespass; or (ii) liable for, and shall pay, on a monthly basis, a License Fee to Licensor equal to 125% of the License Fee that was in effect immediately preceding the revocation or termination of the License. Acceptance of any such License Fee shall not be deemed to be any consent to extend or modify the License. No use of the Licensed Area by Licensee after any termination or revocation of the License shall give it any rights whatsoever under the License Agreement or the License or in connection with the Licensed Area. If Licensor elects that Licensee shall pay the License Fee set forth in Section 2.4(b)(ii), Licensee shall pay an entire month's License Fee for any portion of a month that it or its property remains on or about the Licensed Area after the revocation or termination of the License.

2.5 **License Consideration.** For purposes of this License Agreement, "**License Consideration**" shall include the License Fee (as defined below) and any other amounts that Licensee is obligated to pay Licensor pursuant to this License Agreement. License Consideration shall be paid to Licensor in the lawful currency of the United States of America, at Licensor's address or at such other place and/or directly to such account as Licensor may designate by written notice. License

Consideration shall be paid without any prior demand or notice therefor, except for such notice as may be expressly required elsewhere in this License Agreement, and shall in all events be paid without any deduction, set-off or counterclaim, except as expressly set forth in this License Agreement.

3. **Permitted Use of Licensed Area; Applicable Requirements.**

3.1 **Permitted Use.** Licensee shall use the Licensed Area and the Facilities only for the Business Use and the installation, operation, maintenance, use and repair of the Facilities solely in connection with the Business Use (the "**Permitted Uses**"). For purposes of this License Agreement, the Licensed Area, together with the Facilities, shall be referred to as the "**Site**."

3.2 **Applicable Requirements.** Licensee shall comply at its sole cost and expense with all Applicable Requirements, whether or not such compliance is required because of any use of all or any portion of the Property by Licensor, or any agent, invitee, contractor, tenant, licensee, affiliate, subsidiary, or parent company of Licensor, changes in Applicable Requirements, or whether compliance necessitates structural changes or improvements to all or any portion of the Site, or interferes with Licensee's use of all or any portion of the Site. For purposes of this License Agreement, "**Applicable Requirements**" shall mean and include:

(a) **Laws and Regulations.** All statutes, codes, decrees, judgments, rules, regulations and other legal requirements, as amended, supplemented or replaced from time to time, which are applicable to the maintenance, repair, alteration, use, safety or operation of all or any portion of the Site; including without limitation the condition or use of the Facilities and/or the Licensed Area; and/or Licensee's business and/or operations on, about or in connection with the Site, as presently conducted or as may be conducted in the future, irrespective of whether any of the foregoing are foreseen or unforeseen, ordinary or extraordinary, minor or substantial.

(b) **Third Party Requirements.** All reasonable requirements of Licensor's insurance underwriters, applicable fire rating bureaus or similar bodies, now or hereafter in effect, pertaining to Licensee's use of and/or business or operations on or about all or any portion of the Site; and

(c) **Title Requirements.** All liens, encumbrances, restrictions, rights and conditions of record or otherwise actually known to Licensee, or reasonably ascertainable by inspection or survey.

(d) **Government Permits.** All permits, approvals and licenses (including, without limitation, all terms and conditions thereof) from any governmental or quasi-governmental agency, authority or entity.

3.3 **Prohibited Activities.** Notwithstanding anything to the contrary in this License Agreement, and without limiting the generality of any other provision in this License Agreement, Licensee shall not: (i) disturb or interfere with Licensor or Licensor's activities at, on or about the Property, or with any tenant or any other

licensee, occupant or invitee of any other part of the Property; (ii) cause, maintain, or suffer any waste or nuisance in, on or about all or any part of the Site, including, without limitation, storage or maintenance of any substance or material that presents a fire, explosion, or other hazard; (iii) use the Site in any manner so as to cause either cancellation of Licensor's insurance policies now or hereafter in effect, or any increase in the premiums in connection therewith; and (iv) place any signs or other markings in or upon any externally visible portions of the Site or the Property without Licensor's prior written consent (which consent may be withheld or conditioned in Licensor's reasonable discretion).

3.4 Licensor's Access. Licensor and its authorized representatives shall have the right, but not the duty, at any time to enter upon the Site in order to monitor or inspect Licensee's activities, assess whether Licensee is in compliance with the provisions of this License Agreement, or for any other purpose, including without limitation installing, maintaining, repairing or replacing utilities, facilities, or other infrastructure and improvements, or conducting invasive tests; provided, however, that Licensor shall use reasonable efforts to minimize the impact of such activities on the operation of the Site.

3.5 Reservation of Rights. Licensor further reserves and retains all rights of possession and ownership in connection with the Licensed Area, including without limitation the right to grant and/or enter into, from time to time, such easements, encumbrances, licenses, leases, rights of way, and dedications in connection with and/or including the Licensed Area, as Licensor deems necessary or advisable, in its sole and absolute discretion. Neither this License Agreement, the License nor any use by Licensee or any Licensee Parties shall confer or be construed to confer upon Licensee or any Licensee Parties any rights of possession or ownership whatsoever in or in connection with the Licensed Area, and Licensee shall not claim or assert anything to the contrary.

3.6 Safety. Without limiting the generality of any other provision in this License Agreement, Licensee shall take all steps necessary or advisable to ensure safety at or about the Site, whether or not such steps are required by any Applicable Requirements. Licensor, at Licensee's cost and expense, shall have, upon five days' notice, the right, but not the obligation, to immediately commence and prosecute to completion any cure of any failure by or on behalf of Licensee to comply with any provisions of this Section 3.6. In the event Licensor determines, in its reasonable discretion, that any condition or situation exists at the Site that poses or may reasonably pose any imminent threat to the safety of any persons or property at or adjacent to the Site or to public health and welfare, Licensor shall have the right, but not the obligation, to immediately, at Licensee's cost and expense: (i) perform any work to remedy or mitigate any such imminent threat; and/or (ii) take any actions to remedy or mitigate any such imminent threat, including, without limitation, requiring Licensee to suspend or cease business operations and suspending or revoking the License.

4. Revocation and Termination.

4.1 **Termination by Licensee.** Licensee may terminate the License in the event of any of the following: (i) for any or no reason, upon 90 days' prior written notice to Licensor; or (ii) any failure by Licensor to comply with any material term or condition of this License Agreement, and such failure is not cured within 15 days after written notice thereof to Licensor or, in the event of a cure which requires in excess of 15 days to complete, if Licensor has not commenced such cure within 15 days of such notice and thereafter does not diligently prosecute the cure to completion.

4.2 **Revocation by Licensor.** Licensor may revoke the License upon the occurrence of any of the following: (i) any failure by Licensee to pay any License Consideration required hereunder when due, if such failure shall continue for more than five business days after delivery to Licensee of notice of such failure to make timely payment (a "**Monetary Default**"); or (ii) any failure by Licensee to comply with any term or condition of this License Agreement, other than the payment of License Consideration (a "**Non-Monetary Default**"), if such Non-Monetary Default is not cured within 15 days after written notice thereof is given to Licensee, or in the event of a cure which requires more than 15 days to complete, if Licensee has not commenced such cure within 15 days of such notice and thereafter does not diligently and continuously prosecute the cure to completion; (iii) any failure by Licensee to comply with any provision of that certain Environmental Indemnity License Agreement entered into by and between Licensor and Licensee of even date herewith (the "**Environmental Indemnity Agreement**"), immediately upon written notice to Licensee; or (iv) for any or no reason upon 90 days' prior written notice to Licensee. Without limiting the generality of Section 12, immediately upon any such revocation, Licensor shall have the right to remove Licensee and/or any and all of Licensee's property from the Licensed Area at Licensee's sole cost and expense.

4.3 **Effective Date of Termination or Revocation.** For purposes of this License Agreement, the last day of any notice period set forth in Sections 4.1 and 4.2 after which the License shall terminate or be revoked shall be referred to as the effective date of termination or revocation.

5. **Maintenance and Repair.** Licensee, at its sole cost and expense, shall maintain and keep the Site or any portion thereof in good working order, condition, and repair, and in a clean and sanitary condition. In the event that any repairs or maintenance to or for the Site or any portion thereof are required, Licensee shall promptly arrange for the same through Licensee's contractors, provided Licensor shall have the right to approve, in its reasonable discretion, such contractors in writing. All such repairs and maintenance shall be performed in a first class, workmanlike manner and such repairs and maintenance shall be of a quality and class equal to or better than the original work or item. If Licensee fails to perform any of its obligations under this Section 5, Licensor shall have the right, but not the obligation, to perform such obligations at Licensee's expense upon 48 hours notice to Licensee. The costs incurred by Licensor therefor shall be reimbursed as License Consideration by Licensee within 15 days after invoice by Licensor.

6. Alterations.

6.1 Licensee shall not make any alterations, improvements, additions, replacements, changes, or installations (collectively "**Alterations**") in, on or about all or any portion of the Site without Licensor's prior written consent (which consent may be granted or withheld in Licensor's sole and absolute discretion). In connection with any such proposed Alterations, Licensor shall have the right to (i) approve, in its reasonable discretion, Licensee's contractors; and (ii) require Licensee to provide Licensor, at Licensee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alterations, to insure Licensor against any liability for mechanic's and materialmen's liens and to ensure completion of the work. All Alterations shall be performed in a first-class, workmanlike manner. Should Licensee make any Alterations without the prior approval of Licensor, Licensor shall have the right to require that Licensee immediately remove any or all of such Alterations.

6.2 Any proposed Alterations in or about all or any portion of the Site that Licensee shall desire to make shall be presented to Licensor in written form, with proposed detailed plans. If Licensor shall give its consent, the consent shall be deemed conditioned upon Licensee acquiring all necessary permits and governmental approvals, the furnishing of a copy thereof to Licensor prior to the commencement of the work, and the compliance by Licensee with all Applicable Requirements and all conditions of said permits and approvals in a prompt and expeditious manner.

6.3 Licensee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Licensee at or for use in or at all or any portion of the Site, which are or may be secured by any mechanic's or materialmen's lien against all or any portion of the Site or any interest therein. Licensee shall give Licensor not less than 15 days' notice prior to the commencement of any work at all or any portion of the Site, and Licensor shall have the right to post notices of non-responsibility in or on all or any portion of the Site as provided by law. If Licensee, in good faith, shall contest the validity of any such lien, claim or demand, then Licensee shall, at its sole cost and expense, defend itself and Licensor against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Licensor or the Licensed Area or Site. On written request from Licensor, Licensee shall furnish a release bond as provided under California Civil Code Section 3143 or any successor statute, which shall release such lien from the Licensed Area or Site. In addition, Licensor may require Licensee to pay Licensor's attorney's fees and costs in participating in such action if Licensor shall decide it is in its best interest to do so.

7. Impositions; Utilities; Security.

7.1 **Impositions.** Licensee shall be responsible for and pay prior to delinquency all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises or imposts, whether general or special, ordinary or extraordinary, of every name, nature and kind whatsoever, imposed by any public agency or other authority or entity, that may be levied, assessed, charged or imposed or may be or become a lien or

charge upon any part of the Licensed Area, the License Consideration, the use of the Licensed Area or the use and operation of the Site, or upon any Alterations, Facilities or other improvements, equipment or other personal property on the Licensed Area, including, without limitation, any License Consideration tax, sales tax, service tax, transfer tax, or value tax (collectively, "**Impositions**"). The foregoing notwithstanding, Impositions shall not include any real property taxes or assessments (if any), except that Impositions shall include real property taxes or assessments to the extent increases in said real property taxes or assessments are attributable directly to the value of any Alterations, Facilities, equipment or improvements placed upon the Licensed Area by or on behalf of Licensee. Licensee shall give Licensor prompt written notice of any real property taxes or assessments levied against Licensee that are attributable directly to the Licensed Area or the value of the Site, Alterations, Facilities, or other improvements.

7.2 **Utilities, Security.** Licensee shall be responsible for and pay when due all sums in connection with any and all water, gas, heat, power, telephone, cable, communication and other utilities and services supplied to the Licensed Area, together with any taxes thereon. Licensee, at its sole cost and expense, shall provide the necessary janitorial and security services to maintain the Site in a good orderly manner at all times during the License. Licensee shall pay the cost of any required governmental inspections of improvements to the Site. Licensee assumes all responsibility for the protection of the Site, Licensee, any Licensee's Parties and the property of Licensee and any Licensee Parties from all acts of third parties.

8. Condition of Licensed Area; Release.

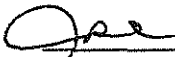
8.1 **As-Is.** THE LICENSED AREA IS BEING LICENSED BY LICENSOR, AND EACH OF THE LICENSED AREA AND THE FACILITIES HEREBY IS ACCEPTED BY LICENSEE, IN ITS EXISTING STATE AND CONDITION AS OF THE EFFECTIVE DATE, SUBJECT TO ALL COVENANTS AND RESTRICTIONS OF RECORD, "AS IS, WITH ALL FAULTS." NEITHER LICENSOR NOR ANY OTHER PARTY HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE LICENSED AREA AND THE FACILITIES, INCLUDING WITHOUT LIMITATION THE CONDITION OF THE LICENSED AREA AND THE FACILITIES, THE SUITABILITY OR FITNESS OF THE LICENSED AREA, THE FACILITIES, OR ANY APPURTENANCES THERETO FOR THE USE OR OPERATION OF THE SITE; THE COMPLIANCE OF THE LICENSED AREA AND THE FACILITIES WITH ANY LAWS, ANY MATTER AFFECTING THE USE, VALUE, OR ENJOYMENT OF THE SITE, THE LICENSED AREA OR THE FACILITIES OR WITH RESPECT TO ANY OTHER MATTER PERTAINING TO THE LICENSED AREA, THE SITE, THE FACILITIES OR ANY APPURTENANCES TO THE LICENSED AREA.

8.2 **Release.** As part of its agreement to accept each of the Licensed Area and the Facilities in its "As Is, With All Faults" condition, Licensee, on behalf of itself and its employees, officers, agents, contractors, guests, invitees, partners, members, shareholders, affiliates, parent company, subsidiaries, successors and assigns (collectively, the "**Licensee Parties**"), hereby waives any right to recover from Licensor, and forever releases, acquits and discharges Licensor of and from, any and all past,

present and future claims, damages, liabilities, suits, losses, costs and expenses (including without limitation attorneys' and expert witness fees and costs of collection), whether direct or indirect, known or unknown, foreseen or unforeseen (collectively, "**Claims**"), arising from and after the Effective Date, that Licensee may now have or that may arise in the future on account of or in any way connected with the Site and/or any portion thereof, including, without limitation: (i) the physical, geotechnical or environmental condition of all or any portion of the Site, including, without limitation, the condition of the Facilities, any seismic, structural, or other deficiencies or defects in connection with the Licensed Area and/or the Facilities, and the presence of any lead-based paint, asbestos or other Hazardous Materials in, on, under or above the Site or any portion thereof (including, without limitation, any soils and groundwater conditions); (ii) the quality, nature or adequacy for Licensee's intended use of all or any portion of the Site and/or existing water, sewer, electric, telecommunications or other utility systems serving the Site; (iii) the Removed Property and/or the Remaining Property (each as defined in Section 12.2); and (iv) any laws or other rules applicable thereto, including, without limitation, laws relating to Hazardous Materials. Notwithstanding anything to the contrary in this License Agreement, the foregoing release: (i) shall not apply to the breach of any express representation, warranty or covenant made by Licensor elsewhere in this License Agreement; (ii) shall not apply to any fraud by Licensor; and (iii) shall survive any revocation or termination of the License or this License Agreement.

8.3 Waiver. Licensee acknowledges, for itself and on behalf of each of the Licensee Parties, that it is aware that it, and/or any of the other Licensee Parties, may hereafter discover facts in addition to or different from those which it now knows or believes to be true with respect to the subject matter of this License Agreement and/or the License, but that it is Licensee's intention to hereby fully, finally and forever waive, assume the risk of, release and discharge each and all of the Claims released under Section 8.2, and to bind all of the Licensee Parties to this release, assumption of risk, discharge and waiver. In furtherance of this intention, the releases set forth in this Section 8 shall be and remain in effect as full and complete general releases notwithstanding the discovery or existence of any such additional or different claim or fact. Licensee, on behalf of itself and all of the Licensee Parties, hereby waives application of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.



Licensee's Initials

9. **Insurance and Indemnity.**

9.1 **Insurance.** Licensee, at Licensee's sole cost and expense, shall obtain and maintain:

(a) Comprehensive broad form general public liability insurance, with limits of not less than \$1,000,000 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) for any one occurrence. Such insurance shall be on an occurrence basis, shall name Licensor as an additional insured and shall include endorsements for Licensee's indemnity obligations hereunder.

(b) Workers' compensation insurance as required by law.

(c) Primary, noncontributory "all-risk" property insurance covering the Licensed Area, the Site, the Facilities, any Alterations, and Licensee's equipment, other personal property, business records, fixtures and equipment at the Site, for damage or other loss caused by fire or other casualty or cause, including, but not limited to, vandalism and malicious mischief, theft, water damage of any type, explosion and other insurable risks in amounts not less than the full insurable replacement value thereof.

9.2 **Insurance Certificates.** Licensee shall provide Licensor with certificates evidencing the insurance required pursuant to Section 9.1 prior to the Effective Date, which shall state that such insurance may not lapse, be changed, amended, canceled or otherwise terminated without at least 15 days' prior written notice to Licensor. Licensee shall provide renewal certificates to Licensor at least 15 days prior to the expiration of such policies. Should Licensee fail to provide any such renewal certificate within such 15-day period, or to pay the premium for any insurance policy required of Licensee hereunder, then Licensor shall have the right, but not the obligation, to obtain, renew or replace any such policy at Licensee's cost and expense. The amount of any premium paid by Licensor and any costs and expenses incurred by Licensor under this Section 9.2 shall constitute License Consideration.

9.3 **Payment of Premium Increase.** Licensee shall pay to Licensor the amount of any increase in premiums for any insurance carried by Licensor if such premium increase is specified by Licensor's insurance carrier as being caused by the nature of Licensee's use of the Site, or any portion thereof, or any act or omission of Licensee. Licensee shall pay any such premium increases to Licensor within 30 days after receipt by Licensee of a copy of the premium statement or other evidence of such premium increase.

9.4 **Insurance Policies.** Licensee shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Section 9. All insurance required to be maintained by Licensee under this Section 9 shall be in a form and carry deductibles reasonably satisfactory to Licensor from time to time.

9.5 **Waiver of Subrogation.** Licensee and Licensor shall cause the insurance company issuing their respective property insurance to waive any

subrogation rights that those companies may have against Licensee or Licensor, respectively, as long as the insurance is not invalidated by the waiver. Provided the waivers of subrogation are contained in their respective insurance policies, Licensor and Licensee waive any right that either may have against the other on account of any loss or damage that is insured under their respective property insurance policies or would have been insured against had the party carried the insurance as required by this License.

9.6 Licensee's Assumption of Risk and Waiver; Exculpation.

(a) Except to the extent such matter is not covered by the insurance required to be maintained by Licensee under this License and such matter is attributable to the gross negligence or willful misconduct of Licensor, and without limiting the generality of any provision of this License Agreement, Licensor shall not be liable to Licensee or any Licensee Parties for: (i) any damage to property of Licensee, or of any Licensee Parties or others, located in, on or about the Licensed Area; (ii) the loss of or damage to any property of Licensee or any Licensee Parties or others by theft or otherwise; (iii) any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain or leaks from any part of the Licensed Area; or (iv) any such damage caused by other tenants, occupants, licensees or persons in the Property, tenants, licensees or occupants of adjacent property, or the public, or caused by operations in construction of any private, public or quasi-public work.

(b) Licensor shall in no event be liable for any consequential damages or loss of business or profits and Licensee hereby waives any and all claims for any such damages. The obligations of Licensor under this License Agreement do not constitute personal obligations of the directors, officers, employees, agents or shareholders of Licensor or Licensor's affiliates, subsidiaries or partners, and Licensee shall not seek recourse against any such directors, officers, employees, agents, shareholders or affiliates, subsidiaries or partners, or any of their personal assets, for satisfaction of any liability or obligation with respect to this License or this License Agreement.

9.7 **Indemnity.** Licensee shall fully indemnify, defend, protect and hold Licensor, any affiliate, subsidiary, parent company, partner or shareholder of Licensor, any successor in interest to any of the foregoing, and the respective officers, directors, trustees, employees, agents, assigns, and insurers of any of the foregoing (collectively, "**Licensor Indemnitees**"), harmless from and against any Claim (including, without limitation, any Claim existing or arising after the Effective Date), which may arise from or be related in any way, directly or indirectly, in whole or in part, to the License and the License Agreement, including, without limitation: (i) Licensee's failure to comply with the terms and conditions of this License Agreement; (ii) any acts or omissions of Licensee and/or the Licensee Parties; (iii) the use of all or any portion of the Site and the conduct of Licensee's business by Licensee and/or any of the Licensee Parties; and (iv) the Facilities, any Removed Property and any Remaining Property (each as defined below). Licensee expressly acknowledges and agrees that it has an immediate and independent obligation to defend Licensor and/or the Licensor Indemnitees from any

Claim which actually or potentially falls within this Section 9.7, regardless of whether any such Claim is, or may be, groundless, fraudulent or false, and that Licensee shall defend Licensor and/or the Licensor Indemnitees with counsel approved in writing by Licensor, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, nothing in this License Agreement shall require Licensee to indemnify Licensor in connection with any Claims to the extent directly resulting from Licensor's breach of any representation, warranty or covenant set forth in this License Agreement, or any intentional fraud by Licensor. Licensee's obligations under this Section 9.7 shall arise at the time any such Claim is tendered to the Licensee by Licensor and shall continue until discharged through performance or judicial determination. Licensee shall not settle any claim without the consent of Licensor and any Licensor Indemnitees that may incur liability in connection with such claim under or following such settlement, which consent shall not be unreasonably withheld.

9.8 **Alternative Insurance.** As an alternative to paragraphs 9.1 – 9.4, subject to the written approval of Licensor which approval shall not be unreasonably withheld, City may self-insure for the losses described therein, upon provision to Licensor of written documentation signed by the City's Risk Manager stating the City has sufficient available and unencumbered assets to cover any loss that may arise.

10. **Mechanics' Liens.** Without limiting the generality of any other provision of this License Agreement, Licensee shall keep the Licensed Area and the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by Licensee, its consultants, contractors, subcontractors or suppliers, and any of their employees, laborers and suppliers. If any such lien shall at any time be filed against the Licensed Area or the Property, Licensee shall cause the same to be discharged of record within thirty (30) days after the date of recording by payment, deposit or bond. If Licensee has not so discharged any such lien, Licensor shall have the right, but not the obligation, to pay or otherwise discharge such lien at Licensee's expense, and all such costs incurred by Licensor shall constitute License Consideration and shall be payable within thirty (30) days after invoice therefor. Licensor shall have the right to post and keep posted on or about the Site any notices (including without limitation any notices of nonresponsibility) that may be provided by law or which Licensor may deem proper in order to protect Licensor, the Licensed Area or the Property from any such liens.

11. **Damage and Destruction.** Under no circumstances shall Licensor have any obligation to repair, restore or replace all or any portion of the Site following any damage or destruction to or affecting the Site, and Licensee shall be solely responsible for all costs and other obligations incurred in connection with any repairs, restoration or replacements in connection with any such damage or destruction.

12. **Surrender, Restoration.**

12.1 **Surrender.** No later than the revocation or termination of the License, Licensee shall (i) remove all Alterations and any other personal property and equipment installed or located at the Licensed Area as of the effective date of any termination or revocation of the License and shall be responsible to repair any damage resulting from any such removal, and (ii) shall restore and surrender the Licensed Area in a clean,

sanitary and debris-free condition and in at least as good order and condition as existed immediately prior to the Effective Date, except for reasonable wear and tear.

12.2 Title to and Removal of Licensee's Equipment. Subject to Licensors rights under Section 12.1, the Alterations shall be and remain the property of Licensee at all times, and Licensee shall, upon the revocation or termination of the License, remove the Alterations and all of Licensee's other personal property from the Licensed Area. If Licensee fails to perform any repairs or restoration or fails to remove any Alterations and other personal property and equipment from the Licensed Area as required by this License Agreement, including, without limitation, Section 12.1, within 15 days after receipt of Licensors written notice to do so, Licensor may do so on Licensee's behalf, and Licensee shall pay Licensor the cost of such repair, removal or restoration within 15 days after receipt of Licensor's invoice. All property remaining on the Licensed Area after the effective date of any termination or revocation of the License that is removed from the Licensed Area by Licensor pursuant to any provisions of this License Agreement or any Applicable Requirements may be used, handled, disposed of or stored by Licensor at Licensee's sole risk and expense (such property, the "**Removed Property**"). All property not removed from the Licensed Area by Licensee or Licensor, or claimed from storage by Licensee within 30 days after revocation or termination of the License (the "**Remaining Property**") shall, at Licensor's option without notice, conclusively be deemed to have been conveyed by Licensee to Licensor, as if by bill of sale, as part of the License Consideration. Unless prohibited by Applicable Requirements, Licensor shall have a lien against all such Remaining Property for the costs incurred in removing and storing the same.

13. Assignment and Sublicensing. Licensee shall not voluntarily or by operation of law assign, sublicense, otherwise transfer or encumber all or any part of Licensee's interest in this License Agreement or the License, or allow or suffer any person or entity to use or occupy the Licensed Area or any portion thereof ("**Transfer**"), without Licensor's prior written consent, which Licensor may grant or withhold in its sole and absolute discretion. Any Transfer shall not relieve Licensee (or any other transferor) of its obligations under this License Agreement. Any transferee shall assume and be bound to perform all of the obligations of Licensee under this License Agreement and the Environmental Indemnity License Agreement. Any transfer not in accordance with this Section 13 shall be null and void.

14. Dispute Resolution.

14.1 Arbitration. If a dispute arises relating to the interpretation of, enforcement of or compliance with any or all of the terms of this License Agreement or the License, including, without limitation, this Section 14 (a "**Dispute**"), such Dispute shall be resolved by binding arbitration, which may be initiated by delivering written notice to all other parties to the Dispute. All parties to the Dispute shall attend and participate in, and shall be bound by the results of, the arbitration proceeding. The arbitration award shall be the sole and exclusive remedy between the parties regarding any Dispute. Notwithstanding anything to the contrary in this License Agreement, the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("**AAA**"). During the pendency of any arbitration

proceeding, the parties shall continue to perform all undisputed obligations under this License Agreement. All arbitration proceedings shall be held in Modesto, California. The arbitrator shall be selected by mutual agreement of the parties from a panel provided by the office of the American Arbitration Association located in Modesto or the city closest to Modesto in which an AAA office is located, or if the parties are unable to agree on the identity of the arbitrator within 15 days after arbitration is first requested, in accordance with AAA rules. The arbitrator shall have at least ten years' experience in real estate matters. The arbitrator shall set the Dispute for hearing within 30 days after the date the arbitrator is selected and shall try any and all issues of law or fact that are the subject of the arbitration and report a statement of decision upon them, if possible, within 45 days of the date the arbitrator was selected or as soon thereafter as is practicable. Neither party shall have the right to conduct discovery in connection with the arbitration proceeding unless authorized by the arbitrator. The arbitrator shall be empowered to: (i) enter equitable as well as legal relief, including, without limitation, injunctive relief and any and all remedies available to Licensor to remove Licensee from the Licensed Area upon termination or revocation of the License; (ii) provide all temporary and/or provisional remedies; and (iii) enter equitable orders that will be binding upon the parties; however, the arbitrator may not impose punitive or exemplary damages under any circumstances. The arbitrator shall issue a single written decision at the close of the arbitration proceeding which shall dispose of all of the claims of the parties that are the subject of the arbitration, and an order or judgment upon that decision may be obtained by either party in a court of competent jurisdiction. The presentation of evidence from any expert or consultant shall not waive any attorney-client or other privilege or exclusionary rule a party may later seek to assert in another proceeding.

14.2 Other Remedies. All applicable statutes of limitation, repose and similar rules of law regarding the time for giving notice, filing and appealing claims, and commencing legal proceedings shall be tolled during the period that the arbitration procedure described in this Section 14 is in progress. Except as provided in the immediately preceding sentence, this dispute resolution procedure shall not in any way affect any statutes of limitation relating to any claim, dispute or other matter or question arising out of or relating to this License Agreement or the breach thereof.

15. Miscellaneous.

15.1 Notices. Every notice required by this License Agreement shall be given in writing and shall be deemed given and effective upon receipt provided that such are delivered in accordance with the provisions of this Section. Notices shall be delivered either by: (a) personal delivery (including delivery by an overnight courier service which obtains confirmation of receipt); or (b) by facsimile, provided that such transmission is followed by delivery by an overnight courier service which obtains confirmation of receipt; or (c) postage prepaid, return receipt requested, certified mail addressed to the address set forth below, or to such other address as a party may designate by written notice given in accordance with the provisions of this Section:

LICENSOR: Beard Land Improvement Company
P.O. Box 1113
Modesto, CA 95353
Attn: Vice President
Facsimile: (209) 529-0336

LICENSEE: CITY OF MODESTO
P. O. Box 642
Modesto, CA 95353
Attn.: Jack Crist
Facsimile: (209) 571-5128

15.2 **Amendment.** This License Agreement may be supplemented, amended or otherwise modified only by a written instrument signed by both parties.

15.3 **Waiver.** No provision of this License Agreement shall be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this License Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and Licensor's consent or approval respecting any action by Licensee shall not constitute a waiver of the requirement for obtaining Licensor's consent or approval respecting any subsequent action. Acceptance of License Consideration by Licensor shall not constitute a waiver of any breach by Licensee of any term or provision of this License Agreement. No acceptance of a lesser amount of License Consideration than the amount herein stipulated shall be deemed a waiver of Licensor's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Licensor may accept such check or payment without prejudice to Licensor's right to recover the full amount due.

15.4 **Interpretation.** Each party has consulted with counsel, or has had the opportunity to consult with counsel and determined that such consultation is unnecessary, and each party has determined that this License Agreement accurately and completely reflects the agreement of the parties. This License Agreement has been reviewed by both Licensor and Licensee, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this License Agreement. The headings used in this License Agreement and the table of contents, if any, are for convenience only and shall not affect the interpretation of this License Agreement. No drafts of this License Agreement or any other document shall be used or argued to interpret the meaning of this License Agreement or any provision thereof, or the parties' intent.

15.5 **Entire Agreement.** This License Agreement is an integrated document that contains the entire understanding between the parties relating to the subjects it covers, and supersedes all prior drafts, applications, correspondence and agreements, whether oral or written, concerning the subject matter of this License Agreement.

15.6 **Severability.** If any term, covenant or condition of this License Agreement is held by a court or regulatory body or agency of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms, covenants and conditions shall continue in full force and effect unless a material failure of consideration would result, in which case the License Agreement shall terminate.

15.7 **Survival.** Sections 2, 3, 8, 12 and 14, and any other provision that expressly states that it survives the termination or revocation of this License Agreement or the License shall survive the revocation or termination of the License and/or this License Agreement.

15.8 **Remedies.** Each remedy set forth in this License Agreement is cumulative of and in addition to any other remedy in this License Agreement or available at law or in equity. The exercise, partial exercise or failure to exercise any remedy by any party shall not be an election of remedies and such party shall not be precluded from exercising any other remedy under this License Agreement or other remedy available at law or in equity.

15.9 **Time is of the Essence.** Time is of the essence in the performance of each party's respective obligations under this License Agreement.

15.10 **Attorneys' Fees.** The Prevailing Party in any action or proceeding (including without limitation any arbitration under Section 14) brought to enforce this License Agreement shall be entitled to recover from the other party its reasonable attorneys' fees, costs, and expenses paid or incurred in good faith in connection with such action or proceeding (including, without limitation, expert witness fees and costs of collection, including those fees and costs incurred in enforcing this Section and those fees and costs incurred in connection with any appeal). For purposes of this License Agreement, the "Prevailing Party" shall be deemed to be that party which obtains substantially the relief sought, whether by dismissal or by award or judgment.

15.11 **No Partnership.** Nothing contained in this License Agreement shall be construed as making Licensor and Licensee joint venturers or partners.

15.12 **Third Party Beneficiaries.** There are no third party beneficiaries to this License Agreement, except as expressly provided herein.

15.13 **Governing Law.** This License and this License Agreement shall be governed by the internal laws of the State of California.

15.14 **Brokers.** Licensee shall indemnify, defend and hold Licensor harmless from and against any Claims for brokerage commissions, finder fees or related costs incurred by Licensee or arising from any commitments or agreements alleged to have been made by Licensee relating to this License or the License Agreement. Licensor shall indemnify, defend and hold Licensee harmless from and against any Claims for brokerage commissions, finder fees or related costs incurred by Licensor or arising from any commitments or agreements alleged to have been made by Licensor relating to this License.

15.15 **Counterparts.** This License Agreement may be executed in multiple counterparts, each of which shall be deemed an original and may be transmitted by facsimile. Counterpart signature pages may be assembled to form a single original document.

15.16 **Successors and Assigns.** Subject to Section 13, and except as otherwise expressly provided herein, all of the covenants, conditions and provisions of this License Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns.

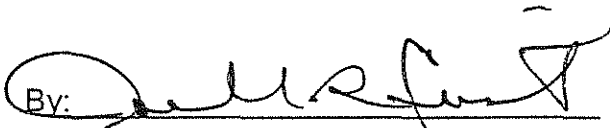
15.17 **Exhibits.** The following attached exhibits are incorporated into and made a part of this License Agreement by this reference:

- Exhibit A Parcel Map of the Property
- Exhibit B Legal Description of the Licensed Area
- Exhibit C Site Plan Showing Licensed Area

IN WITNESS WHEREOF, the parties hereto have entered into this License Agreement as of the Effective Date.

LICENSEE:

CITY OF MODESTO,
a municipal corporation

By: 

Title: City Manager

Printed Name: Jack Crist

Attest:

By: 

Title: City Clerk

Printed Name: Jean Zahr

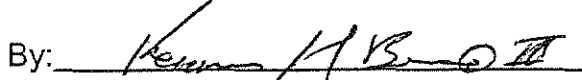
LICENSOR:

BEARD LAND IMPROVEMENT
COMPANY, a California corporation

By: 

Title: President

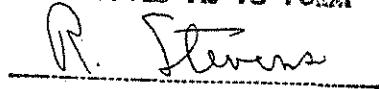
Printed Name: J. D. Mackill

By: 

Title: VICE PRESIDENT

Printed Name: KENNAN H BEARD III

APPROVED AS TO FORM



Roland R. Stevens
Assistant City Attorney

EXHIBIT A
THE PROPERTY

ST.
ST.

78'

YOSEMITE

532530-30-2
PLA 44

1252.02' 40' M.B.E.T.R.R.

CODONI AVENUE

53.01'

15.28 AC. ±

356

THE PROPERTY
APN 009 19 36

250'

210'

300.88'

570'

650'

40'

29.15 ± AC. ±

358

530.150 ± 25'

2009 AC ±

EXHIBIT A
THE PROPERTY

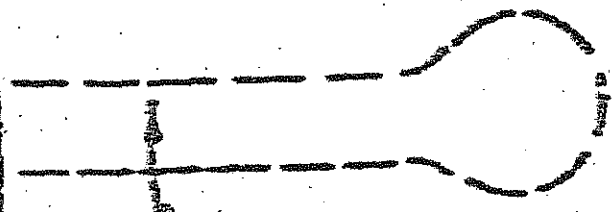


EXHIBIT A
The Property

All that portion of the East half of Section 31, Township 3 South, Range 10 East, M. D. B. & M., situated in Stanislaus County, California, and bounded and particularly described as follows, to wit:

BEGINNING at a point bearing South 33 feet from the quarter section corner between Sections 30 and 31, Township 3 South, Range 10 East, M. D. B. & M.; thence South on the quarter line 51.96 chains; thence East 19.78 chains to fence corner; thence North along fence 51.73 chains to South line of County Road; thence West along South line of road 19.63 chains to **POINT OF BEGINNING**.

EXCEPTING THEREFROM the Westerly 20 feet thereof as conveyed to the County of Stanislaus for road purposes, also excepting therefrom that portion conveyed to Bertha H. Veneman, by Deed from D. Van Konyenburg and wife recorded April 3, 1929, Instrument No. 4498, Stanislaus County Records.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to the Modesto Irrigation District, an Irrigation District, by Deed recorded March 1, 1957 in Book 1413, page 485 of Official Records, as Instrument No. 5762.

ALSO EXCEPTING THEREFROM the North 40 feet as conveyed to Modesto Interurban Railway, (now Modesto and Empire Traction Co.) by deed recorded July 7, 1920 in Volume 317 of Deeds, page 129.

EXHIBIT A
THE PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF THE LICENSED AREA

All that certain piece of land situate in and being a portion of the northeast quarter of Section 31, Township 3 South, Range 10 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at the southeast corner of the property as filed for record in Volume 2570 of Grant Deed, at Page 560, Instrument number 4463 dated August 1, 1973, of Stanislaus County Records, also as shown in Book 8 of Surveys, at Page 14, recorded on October 9, 1959, of Stanislaus County Records, said point being on the north right of way line of Modesto Irrigation District Lateral No.1; thence northwest along a said north line of Lateral No. 1 North 84°30'12" West, a distance of 627.04 feet; thence north along a chainlink fence line North 1°18'36" West, a distance of 1188.52 feet to a fence corner; thence southwest along a chainlink fence line South 88°53'02" West, a distance of 81.49 feet to a fence gate; thence north along a two-way fence gate North 1°53'40" West, a distance of 90.45 feet to a chainlink fence corner and **THE POINT OF BEGINNING**; thence the following Thirteen (13) courses along chainlink fences:

(1) North 1°16'42" West, a distance of 430.40 feet; (2) North 37°19'19" West, a distance of 132.31 feet; (3) South 58°52'01" West, a distance of 37.17 feet; (4) South 19°14'55" East, a distance of 13.75 feet; (5) South 24°38'18" East, a distance of 17.30 feet; (6) South 36°48'01" East, a distance of 40.43 feet; (7) South 26°27'00" East, a distance of 30.39 feet; (8) South 1°15'46" East, a distance of 99.93 feet; (9) South 88°50'39" West, a distance of 501.33 feet; (10) South 1°16'25" East, a distance of 304.22 feet; (11) North 88°53'02" East, a distance of 91.32 feet; (12) South 1°06'19" East, a distance of 24.43 feet; (13) North 88°55'56" East, a distance of 472.71 feet to **THE POINT OF BEGINNING**.

SUBJECT TO all easements and /or rights-of-way, of record. Containing 4.48 acres, more or less.

File: 69301LEASE.DOC
Date:10/31/2000

EXHIBIT B

LEGAL DESCRIPTION OF THE LICENSED AREA

S0°19'00"E , 670.01'(M)(A)

S0°19'00"E , 2100.84'(M)(A)

CODONI

35'
35'

LICENSED AREA
EXHIBIT C

92.8'

7.8'

LICENSED AREA
CITY OF MODESTO
4.476 ACRES

LICENSED AREA
EXHIBIT C

N27°44'39"E
55.78'

S1°15'46"E , 99.93'

S26°27'00"E , 30.39'

S36°48'01"E , 40.43'

S24°38'18"E , 17.30'

S19°14'55"E , 13.75'

S58°52'01"W , 37.17'

N37°11'15"W , 486.93'

S79°47'59"E , 120.43'

11°44'E , 22.98'

S59°42'E , 391.57'

N1°53'40"W , 90.45'

N88°53'02"E , 81.49'

POINT OF BEGINNING

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 152**

**A RESOLUTION APPROVING AN EMERGENCY PUBLIC WORKS
CONTRACT WITH IONICS ULTRA-PURE WATER FOR TEMPORARY
LEASE OF NITRATE TREATMENT SYSTEM FOR GRAYSON COMMUNITY
WATER SYSTEM.**

WHEREAS, the City of Modesto is the potable water provider for the community of Grayson, and

WHEREAS, there are only two wells sites serving this community and both require nitrate treatment to meet water quality standards, and

WHEREAS, the electro dialysis reversal treatment system currently in use has failed on a number of occasions and is considered unreliable, and

WHEREAS, the City of Modesto received a compliance order from the California Department of Health Services mandating that a new treatment system be obtained for the two wells, and

WHEREAS, a contract was approved by the City Council on November 6, 2002, to evaluate treatment options, and

WHEREAS, this contractual work and the related construction will not be completed until the fall of 2003, and

WHEREAS, this timing does not meet the compliance order schedule so an extension of time has been requested, and

WHEREAS, it is the City's obligation to provide and maintain an adequate water supply to this area for public health and safety, and

WHEREAS, City staff, understanding the unreliable nature of the existing equipment, arranged for lease from Ionics Ultra-Pure Water for a portable nitrate treatment system, and

WHEREAS, the lease terms are considered acceptable to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an emergency public works contract with Ionics Ultra-Pure Water in an amount not to exceed \$184,420 for the lease of a portable nitrate treatment system.

BE IT FURTHER RESOLVED that execution of the Ionics Ultra-Pure Water contract by the City Manager or his designee 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 March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-153**

**A RESOLUTION APPROVING THE APPLICATION FOR \$300,000 IN
HOUSING CODE ENFORCEMENT ASSISTANCE GRANT FUNDING AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPLICATION**

WHEREAS, under Senate Bill 1227 (Chapter 26, Statutes of 2002), HSC section 53533(a)(6), funding was approved as part of Proposition 46 (2002), for Housing Code Enforcement Assistance Grants through the Department of Housing and Community Development (HCD), Division of Codes and Standards, and

WHEREAS, the City is applying for \$300,000 to equip 37 vehicles with wireless technology, \$100,000 of which will be used to install equipment in the vehicles, and \$200,00 for wireless infrastructure, and

WHEREAS, effective code enforcement is necessary to protect public health and safety, to preserve affordable housing that could otherwise be lost through closure or demolition, and to avoid displacement of owners and renters, and

WHEREAS, staff will monitor and report for a three-year grant period as required by the grant agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the filing of an application for Housing Code Enforcement Assistance Grant funding in the amount of \$300,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-154**

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH RRM DESIGN GROUP TO PROVIDE ADDITIONAL SERVICES RELATED TO THE PREPARATION OF THE CONSTRUCTION DOCUMENTS FOR MADDUX YOUTH CENTER IMPROVEMENTS AT A COST NOT TO EXCEED \$40,374 PLUS A \$2,000 CONTINGENCY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.

WHEREAS, the City of Modesto owns the Maddux Youth Center located at 619 Sierra Drive in César Chávez Park, and

WHEREAS, on August 14, 2001, the City entered into an agreement with RRM Design Group ("RRM") to provide a Schematic Design Report and Construction Documents for the Maddux Youth Center for a total contract amount of \$58,200, and

WHEREAS, on February 26, 2002, the City amended the agreement to expand the project scope from a 2,000 square foot addition to 6,000 square feet to include a Police Activities League (PAL) boxing arena, a multi-purpose room, a computer classroom, restroom and entry lobby, at a total contract amount of \$112,626, and

WHEREAS, staff now desires to expand RRM's scope of work further to include: additional demolition costs to the existing building, including the removal of interior walls within the existing office, computer and weight rooms and some preparation work for the added perimeter hallway on the south side of the building; additional interior partitions to be constructed within the existing building; window treatments in the budget for replacement windows; the addition of a PA system; and additional kitchen equipment for a small kitchenette, and

WHEREAS, the Second Amendment provides for a total contract cost of \$155,000, which includes \$2,000 as a contingency in the event additional, but unanticipated, services become necessary, and

WHEREAS, staff recommends a Second Amendment to the Agreement with RRM to provide the additional work as described in **Exhibit "A"**, attached hereto and incorporated by reference, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported staff's recommendation to approve a Second Amendment to the

Agreement with RRM to provide the additional work as described in Exhibit "A", at a cost not to exceed \$40,374, plus the \$2,000 contingency fund, for a total contract amount not to exceed \$155,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Second Amendment to Agreement with RRM Design Group to provide additional services related to the preparation of the construction documents for Maddux Youth Center at an additional cost not to exceed \$40,374, plus \$2,000 as a contingency fund.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

CITY OF MODESTO
PARKS, RECREATION AND NEIGHBORHOOD DEPARTMENT

Maddux Youth Center Addition & Remodel

EXHIBIT A-2

REVISED PROJECT SCOPE

Include Modifications to the Maddux Youth Center.

The Maddux Youth Center is in need of renovation and expansion. The existing 7,200 sf facility, built between 1950 and 1952 requires some strategic modifications as well as a 6,125 sf addition to the east and north sides of the building to house a P.A.L. boxing facility, Multipurpose room (for up to 50 persons), computer classroom for 8 students plus teacher, new entry and additional restrooms and support rooms. The construction budget for the project was originally established at \$500,000 with funding having been obtained through Federal grants. However, there has been additional project scope added and a schematic construction budget that included this additional scope totaled \$2.3 million. After reviewing the schematic estimate twice, the construction, budget has been modified and set at +/- \$1.6 million. The project is anticipated to have final construction documentation completed and filed by June of 2003, with occupancy by June 2004.

The revised scope of the project shall add the preparation of construction documents by the Consultant for the following work items:

- Additional demolition work and new interior partitions within the existing building.
- The addition of a hallway on the south side of the existing gymnasium to improve circulation.
- New window treatments
- A new public address system
- Additional kitchen equipment for a small kitchenette

The fee proposal includes the aforementioned workscope and project approach as outlined in the project proposal dated June 7, 2001. The fee proposal also includes the workscope as outlined in Exhibits "A" and "A-1" of the original Agreement and the Amended Agreement. The fee shall include the following design aspects: architecture, civil, geotechnical, structural, mechanical, electrical engineering and cost estimating. The City shall provide an electronic copy of the survey and geotechnical report to the architect for use in the design of the new facility.

CITY OF MODESTO
PARKS, RECREATION AND NEIGHBORHOOD DEPARTMENT

Maddux Youth Center Addition & Remodel

EXHIBIT B-2

SCHEDULE OF FEES AND RATES FOR BASIC SERVICES

Task	Description	Fee
A	PROJECT MANAGEMENT PLAN	\$ 1,300.00
B	PROGRAM, CONCEPTUAL DESIGN AND SITE ANALYSIS	\$ 13,115.00
C	SCHEMATIC PLANS, SPECIFICATION OUTLINE & COST ESTIMATE	\$ 23,640.00
D	DESIGN DEVELOPMENT/CONSTRUCTION DOCUMENTS AND COST ESTIMATE	\$ 94,217.00
E	BIDDING	\$ 5,281.00
F	CONSTRUCTION ADMINISTRATION	\$ 11,847.00
G	REIMBURSABLES*	\$ 3,600.00
	TOTAL -- (TASKS A THROUGH G)	\$153,000.00

**Not-to-exceed amount*

This fee does not include the following:

- ∇ *Landscape Architecture*
- ∇ *Surveying (by City)*
- ∇ *Existing Condition Drawings (by City)*
- ∇ *Hazardous Materials Studies (by others)*

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-155**

**A RESOLUTION AMENDING THE FISCAL YEAR 2002/2003 ANNUAL
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS**

WHEREAS, the Police Department acquired a grant award from the federal COPS Office for a 2002 COPS MORE Grant in the amount of \$500,000, and

WHEREAS, the City's match for this federal grant program is \$125,000 and will be made from two California Law Enforcement Equipment Programs and the General Fund Reserve, and

WHEREAS, at its meeting on March 3, 2003, the Safety and Communities Committee unanimously supported this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2002/2003 Annual Budget is hereby amended as indicated below:

To:	<u>Expense:</u> 0400-190-2987-5000	2002 COPS MORE Grant	\$500,000
From:	<u>Revenue:</u> 0400-190-2982-3132 0400-190-2921-3132 0100-700-2987-7040 0400-190-2987	2002 CLEEP 2000 CLEEP General Fund COPS MORE	\$85,040 \$6,898 \$33,062 \$375,000

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 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-156**

**A RESOLUTION VACATING AND ABANDONING THE ALLEY AND PUBLIC
UTILITY EASEMENT IN BLOCK NO. 69 (STANISLAUS COUNTY)**

WHEREAS, the City of Modesto owns a right of way easement for the purpose of maintaining an alley and public utility easement in Block No. 69 of the City of Modesto, and

WHEREAS, Stanislaus County has filed an application to vacate and abandon the alley in Block No. 69, and

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public streets and alleys, and

WHEREAS, Stanislaus County submitted a title report with the abandonment request which vests the underlying fee title to the alley in Stanislaus County, as the adjacent land owners, and

WHEREAS, Stanislaus County is a proponent of the abandonment, and

WHEREAS, all utilities in the alley have been removed and relocated to the satisfaction of the affected utilities, and

WHEREAS, the proposed alley abandonment has been referred to affected City departments and local utility companies, and no objection to the abandonment has been received, and

WHEREAS, Government Code Section 65402 requires that prior to abandoning a public street, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, on December 2, 2002, the City of Modesto Planning Commission held a public hearing in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing evidence was received and considered regarding the proposed vacation and abandonment, and conformance with the City's General Plan pursuant to Government Code Section 65402 and Streets and Highways Code Section 8313, and

WHEREAS, by Resolution No. 2002-51, the Planning Commission found that abandonment of the alley is in conformance with the City's General Plan, and recommended that Council vacate and abandon the alley, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, March 25, 2003, 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 vacation and abandonment of the alley were afforded the opportunity to appear, and

WHEREAS, three notices were posted in the alley for two 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, Sections 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate and abandon the subject alley have been done and accomplished,

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

1. That the alley and public utility easement to be abandoned will be unnecessary for present or prospective pedestrian, vehicular, or public utility use after all existing utilities have been removed from the alley.

2. That Environmental Assessment No. C&ED 2002-64 judged this project to be within the scope of the General Plan Master EIR.
3. That the vacation and abandonment of the alley and public utility easement in Block No. 69 is in conformance with the City of Modesto General Plan, provided that the conditions set forth below are fully satisfied.

BE IT FURTHER RESOLVED that the City Council hereby orders and declares the vacation and abandonment of the alley and public utility easement in Block No. 69, bounded by H, I, 10th & 11th Streets, subject to the following conditions:

1. No abandonment of the alley or the public utility easement contained therein shall occur until and unless all utilities have been removed from the alley. These utilities include a Modesto Irrigation District high tension line and a secondary line, and Pacific Gas & Electric gas lines.
2. The City Clerk shall not be authorized to record the resolution of abandonment and vacation of the alley and public utility easement until at least five (5) working days after the City Clerk has received written releases from all of the following agencies and utilities stating that their respective facilities have been relocated from the alley and that they consent to the abandonment of the alley and public utility easement: City of Modesto Engineering & Transportation Department, Modesto Irrigation District, Pacific Gas & Electric Company, and AT&T Broadband.
3. If the above conditions have not been satisfied by March 25, 2004, then the conditional approval for abandonment of the alley and public utility easement shall automatically expire and have no further force and effect.

The legal description of the alley and public utility easement to be conditionally vacated and abandoned by this resolution 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 the City Clerk shall hold this resolution of abandonment until conditions 1 through 3 above have been fully satisfied, and when not less than five (5) 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Jackman, 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: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Exhibit "A"

LEGAL DESCRIPTION
Block 69 Alley Abandonment

All that certain real property in Block 69 as shown on the map recorded December 21, 1942 in Volume 15 of Maps, Stanislaus County Records, lying in the southeast quarter of Section 29, 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:

Commencing at the north corner of said Block 69, thence South $46^{\circ} 30' 30''$ West on the southeasterly line of I Street, 140.00 feet to the northeasterly line of a 20.00 feet wide alley running southeasterly through said Block 69 and the POINT OF BEGINNING of this description; thence South $43^{\circ} 29' 30''$ East on said northeasterly line, 400.00 feet to the northwesterly line of H Street; thence South $46^{\circ} 30' 30''$ West 20.00 feet to the southwesterly line of said 20.00 feet wide alley; thence North $43^{\circ} 29' 30''$ West on said southwesterly line, 400.00 feet to the southeasterly line of I Street; thence North $46^{\circ} 30' 30''$ East 20.00 feet to the point of beginning.

Containing 8000 square feet, more or less.



Date Signed: February 14, 2003



COURT HOUSE

11th ST.

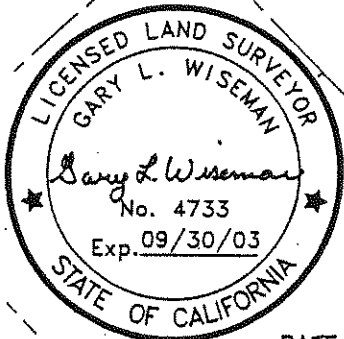
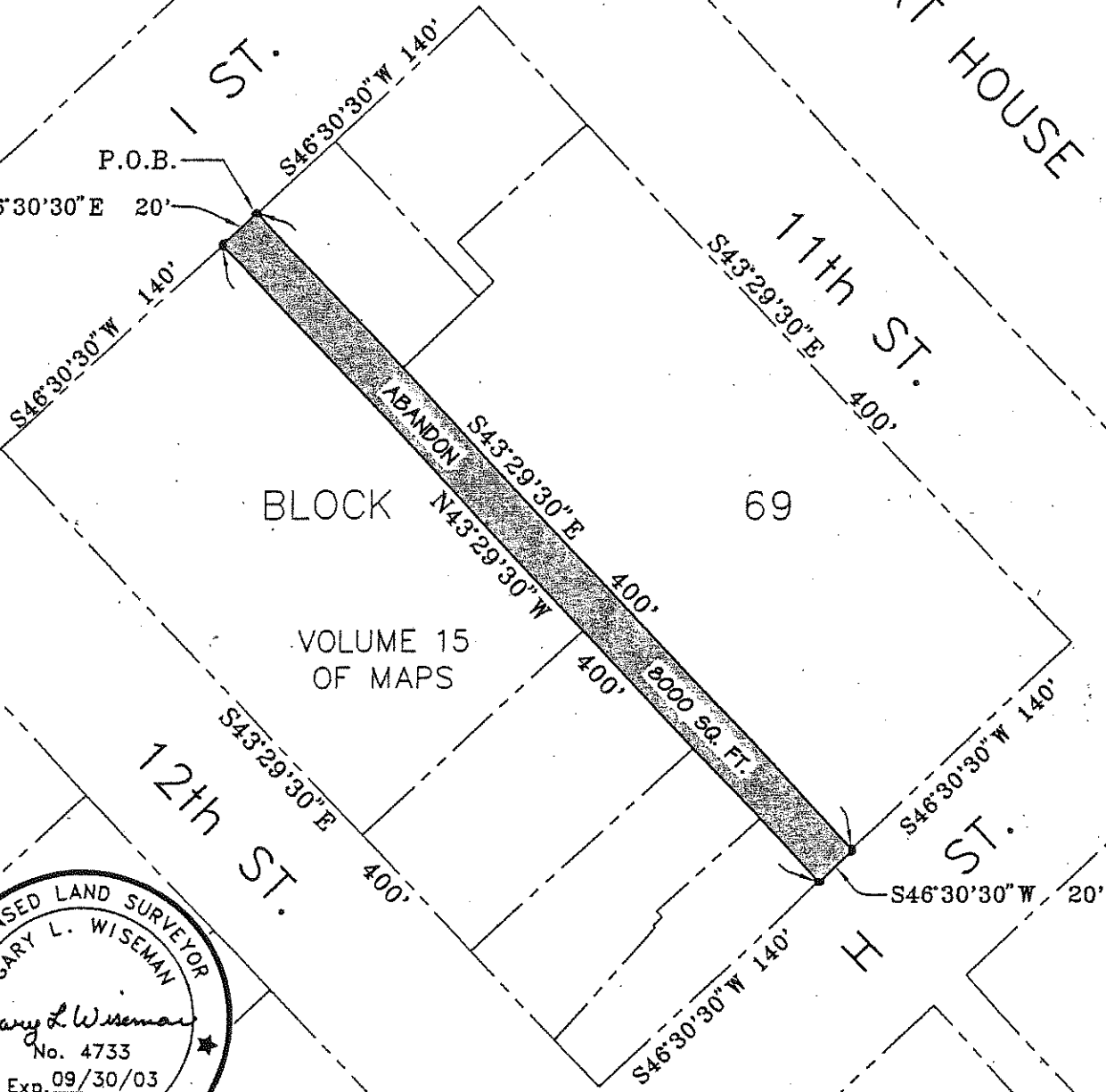
69

BLOCK

VOLUME 15
OF MAPS

12th ST.

H ST.




DATE SIGNED: 2/14/2003

APPROVED BY:	P.E.
DATE:	EXP. DATE:
ASBUILT BY:	DATE:
ASBUILT PLOTTED:	DATE:
REVISED:	DATE:
DATE: 2/14/2003	DRAWN BY: P. SOARES

PLAT TO ACCOMPANY
LEGAL DESCRIPTION
BLOCK 69 ALLEY ABANDONMENT
TO STANISLAUS COUNTY

CHECKED BY:
G. WISEMAN

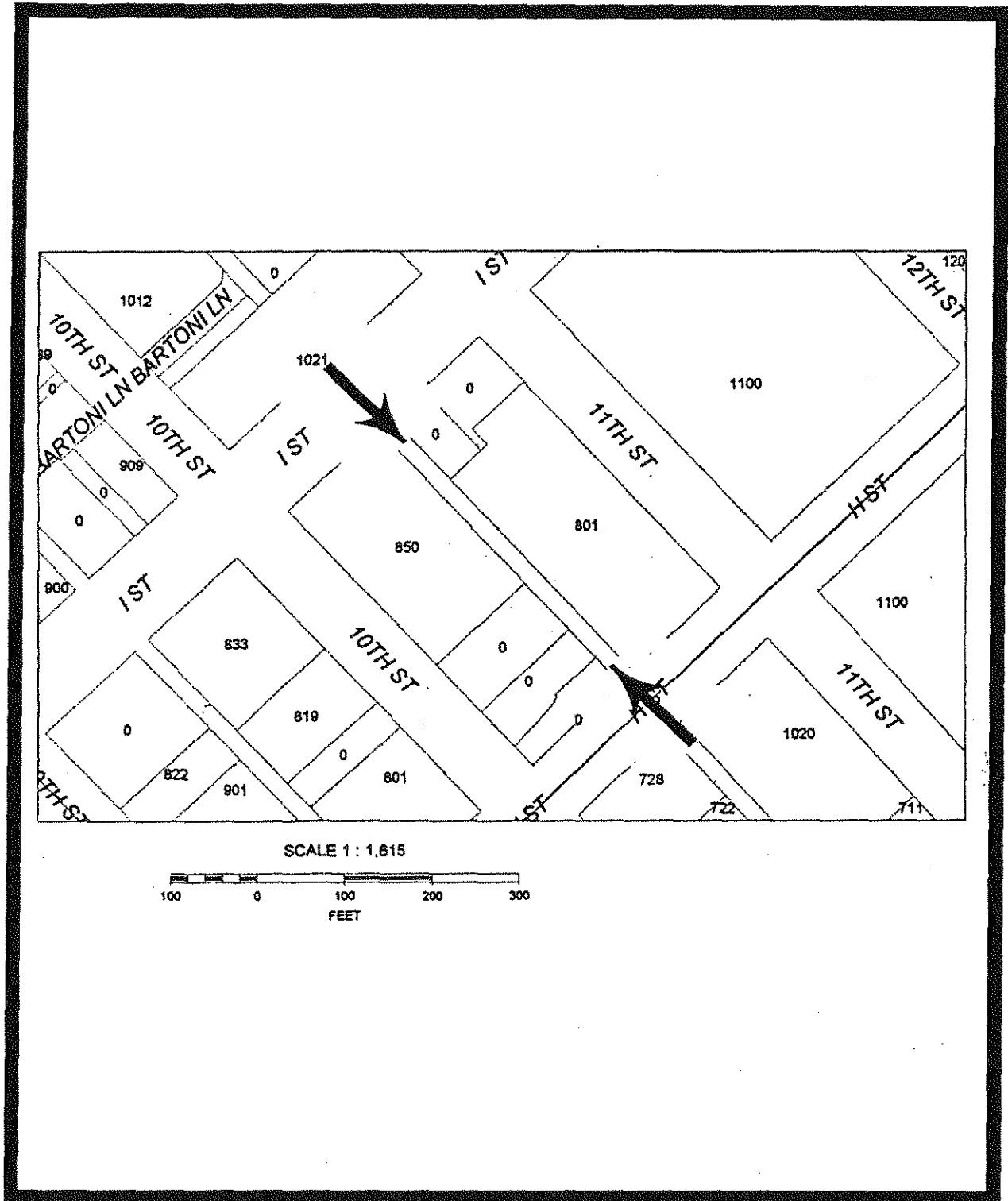
FIELD BOOK: PAGE:



CITY of MODESTO
ENGINEERING AND
TRANSPORTATION
DEPARTMENT

ACTIVITY NO.

FILE NO.
4-A-790



AREA MAP OF PROPOSED
ALLEY ABANDONMENT

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-157**

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. 92052017): VACATION AND ABANDONMENT OF THE ALLEY AND PUBLIC UTILITY EASEMENT IN BLOCK NO. 69 (STANISLAUS COUNTY)

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, the County of Stanislaus has proposed that the alley and public utility easement in Block No. 69, in the City of Modesto be conditionally vacated and abandoned (“the project”) to facilitate development of the Gallo Performing Arts 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 2002-64 (“Initial Study”) reviewed the proposed 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 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 February 10, 2003, 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 March 25, 2003, 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 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. 92052017) as being within the scope of the Master EIR report.
2. That the project will have no new additional significant effects on the environment not identified 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 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 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 25th day of March, 2003, by Councilmember Jackman, 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: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

Initial Study

EA/C&ED 2002-64

City of Modesto
Initial Study

Abandon Alley in Block No. 69, Downtown Modesto

EA/CDD 2002-64

November 8, 2002

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 92052017), adopted August 15, 1995, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
Public Hearing – Application of Stanislaus County, to abandon the alley in Block No. 69, Downtown Modesto
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:
Brad Wall
City of Modesto Community Development Department
1010 10th Street, Suite 3100
Modesto, CA 95353
(209) 577-5282
- D. Project Location:
Block No. 69, Downtown Modesto
- E. Project Sponsor:
County of Stanislaus
P.O. Box 3404
Modesto, CA 95353
- F. General Plan Designation:
Redevelopment Planning District (RPD)
- G. Current Zoning:
General Commercial (C-2)

- H. Description of Proposed Project:
This is an application to abandon the alley in Block No. 69, in downtown Modesto. The surrounding area is developed with commercial and government land uses. The purpose of the proposed abandonment is to allow development of the planned Gallo Performing Arts Center.
- I. Surrounding land uses: (See "H." above.)
- J. Other public agencies whose approval is required: None.

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR (MEIR) for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the MEIR.

A. Traffic and Circulation

The proposed abandonment will not contribute to increased traffic in the area, and it is consistent with the Traffic and Circulation Needs section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

B. Degradation of Air Quality

The air quality impacts for the proposed project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, the proposed abandonment will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are still valid.

C. Generation of Noise

The proposed project is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of government and commercial uses. No significant noise impacts will be generated as a result of the proposed abandonment, nor will the adjacent neighborhood be impacted as a result of this project. It will not create additional significant impacts and Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.

D. Loss of Productive Agricultural Land

The project area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

E. Increased Demand for Water Supplies

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide water service to the site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the

MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure (if any) to provide sanitary sewer service to the project site. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The proposed project is in a built-up urban area and will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are still valid.

H. Disturbance of Archaeological and Historic Sites

Figure 8-1 of the MEIR indicates that the proposed project is not within the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages IV-8-1 through IV-8-21) are still valid.

I. Drainage, Flooding and Water Quality

The proposed project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will reduce the impacts of increased runoff within the baseline developed area to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages IV-9-1 through IV-9-23) are still valid.

J. Increased Demand for Storm Drainage

The proposed project is consistent with the General Plan in land use and intensity, and will provide the necessary infrastructure to provide for adequate storm drainage. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages IV-10-1 through IV-10-8) are still valid.

K. Increased Demand for Parks and Open Space

The MEIR concluded that demand for parks and open space would be mitigated through the payment of Capital Facilities Fees (CFF) for new development, which would be used for the development of new parks. As a result, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are still valid.

L. Increased Demand for Schools

The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

M. Increased Demand for Police Services

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid.

N. Increased Demand for Fire Services

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are still valid.

O. Generation of Solid Waste

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10) are still valid.

P. Generation of Hazardous Materials

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-15) are still valid.

Q. Landslides and Seismic Activity

The proposed project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages IV-17-1 through IV-17-11) are still valid.

R. Energy

The proposed project is consistent with the General Plan in land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 92052017), which analyzed the potential impacts of buildout of the Baseline Developed Area.
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this project that require specific mitigation measures. All certified mitigation measures identified in the MEIR will apply Citywide, including this project, as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Brad Wall,
Associate Planner

**CITY OF MODESTO
RESOLUTION NO. 2003-158**

**A RESOLUTION OF THE CITY OF MODESTO AMENDING THE FY 02-03
BUDGET TO APPROPRIATE \$602,000 FROM THE GENERAL FUND
CONTINGENCY RESERVE AND APPROVING A LOAN BETWEEN THE
MODESTO REDEVELOPMENT AGENCY AND THE CITY OF MODESTO IN
THE AMOUNT OF \$602,000 FOR THE PURPOSE OF FUNDING CERTAIN
PUBLIC IMPROVEMENTS FOR THE GALLO ARTS CENTER**

WHEREAS, the Gallo Arts Center (Center) is a \$31 million project by the County of Stanislaus (County), planned for the block between 10th and 11th streets and H and I streets in downtown Modesto, which will feature a 1,200-seat theater, a 400-seat theater and art gallery, and

WHEREAS, on August 9, 2002, the City received a letter from the County requesting financial participation in said Center street, streetscape and curb improvements, and

WHEREAS, at their hearing of February 4, 2003 the City Council approved providing funding support for the Center in the amount of \$1,030,000, and

WHEREAS, the City Council authorized use of various funding sources for said Center improvements, including Sewer, Water, Storm Drain and Technical Equipment Replacement Funds, and

WHEREAS, the City Council determined that use of Gas Tax revenues as a funding source for the street and streetscape improvements for said Center is not a preferred alternative, and

WHEREAS, said Center property is located within the boundaries of the Modesto Redevelopment Agency (Agency) Project Area and the expenditure of redevelopment tax increment revenues for public improvements is a permitted use of such funds, and

WHEREAS, City has determined that the tax increment revenue portion of the funding support for said Center is \$602,000, as specified in Attachments A and B, and

WHEREAS, the current debt obligation of the City's Redevelopment Agency (RDA) exceeds the Agency's annual net tax increment revenue and necessitates an appropriation from the General Fund Reserves in the amount of \$602,000 to fund certain public improvements for the Gallo Arts Center, and

WHEREAS, the City has determined that a loan in the amount of \$602,000 be allocated to reimburse the County in the amount of \$473,000 and the City in the amount of \$129,000 for construction of curb, gutter and streetscape improvements, as reflected in Attachments A and B, which are attached hereto and made a part hereof by this reference, and

WHEREAS, the City of Modesto and the Agency have established budget policies whereby the City of Modesto can advance money to the Agency, and

WHEREAS, the proposed loan was reviewed by the Finance Committee at their meeting on February 24, 2003 and was recommended for approval to the City Council and Agency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the FY 02-03 Budget is hereby amended to appropriate the amount of \$602,000 from the General Fund Contingency Reserve funds and approve a loan between the Modesto Redevelopment Agency and the City of Modesto in the amount of \$602,000 for the purposes of funding street, curb, streetscape and traffic signal improvements for said Center as follows:

- 1) City of Modesto General Fund Contingency Reserve shall be reduced by \$602,000 (Account No. 0100-800-8000-8003).
- 2) Said \$602,000 shall be placed into the Modesto Redevelopment Agency Capital Improvement Account – Gallo Arts Center Public Improvements (Account No. 9080-140-Q260).
- 3) The Finance Director shall take appropriate steps to document the indebtedness owed by the RDA to the City of Modesto, including principal and interest at 7% per-annum.
- 4) Said documentation shall show the date of each draw down.
- 5) Repayment of the principal and interest of said loan will be made in accordance with the provisions of the policies set-forth in the FY 02/03 Budget.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 25th day of March, 2003, by Council member Fisher, who moved its adoption, which motion being duly seconded by Council member Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Fisher, Frohman, Jackman, Keating, Mayor Sabatino

NOES: Council members: O'Bryant

ABSENT: Council members: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

STREET CIP ESTIMATE

PERFORMING ARTS IMPROVEMENTS - OPTION 1A					
ESTIMATE BY: D. Phillips				DATE:	2/26/2003
ASPHALT OVERLAY THICKNESS		0 FT =	0.00	IN	
BASE THICKNESS		0 FT =	0.00	IN	
NO.	DESCRIPTION	QUANTITY	UNITS	UN/PRICE	EXTENSION
1	REMOVE AND REPLACE CURB AND GUTTER	1050	LF	20.00	21,000
2	SIDEWALK - 3' BROOM	1560	SF	5.00	7,800
3	SIDEWALK - LITHOCRETE	3640	SF	16.00	58,240
4	SIDEWALK - EXPOSED AGGREGATE	4900	SF	7.00	34,300
5	DRIVEWAY APPROACHES	700	SF	6.00	4,200
6	HANDICAPPED RAMPS	3	EA	2,000.00	6,000
7	I STREET PAVERS PLUS CONCRETE BORDER	1575	SF	16.00	25,200
8	I STREET BOLLARDS	9	EA	1,000.00	9,000
9	STREET TREES (City O&M)	33	EA	0.00	0
10	POTTED TREES ON 11TH STREET	12	EA	1,000.00	12,000
11	DRAIN INLETS	3	EA	2,000.00	6,000
12					0
13	CLEAN & FLUSH STORM DRAIN PIPE (City O&M)	2000	LF	0.00	0
14	CLEAN & FLUSH SANITARY SEWER PIPE (City O&M)	1000	LF	0.00	0
15	REMOVE 6" SANITARY SEWER PIPE (City O&M)	800	LF	0.00	0
16	INSTALL 8" VCP (City O&M)	50	LF	0.00	0
17	REMOVE 4" CIP WATERLINE	200	LF	2.00	400
18					0
19	STREET LIGHTS - ENTIRE BLOCK	25	EA	3,500.00	91,000
20	STREET LIGHTS - SPECIAL FOUNDATION ON 11TH ST	4	EA	5,000.00	20,000
21	MODIFY TRAFFIC SIGNAL 10TH AND I STREETS	0	LS	5,000.00	0
22	MODIFY TRAFFIC SIGNAL 11TH AND I STREETS	0	LS	5,000.00	0
23					0
24					0
25	TRAFFIC CONTROL	1	LS	15,000.00	15,000
26					0
27	BUDGET CONTINGENCY	20	PCT.	0.20	62,028
EXPENDITURE CODE					
CONSTRUCTION CONTRACT		6040			372,168
				PERCENT	
ENGINEERING/DESIGN/ADMINISTRATION		6010		12%	44,660
CONSTRUCTION ADMINISTRATION		6060		10%	37,216
CONSTRUCTION CONTINGENCY		6050		5%	18,608
ENVIRONMENTAL		6001			
UTILITY RELOCATIONS		6020			
RIGHT OF WAY		6030			
OTHER		6070			
PROJECT TOTAL					\$473,000

STREET CIP ESTIMATE

PERFORMING ARTS IMPROVEMENTS - MANDATORY CITY IMPROVEMENTS					
ESTIMATE BY: D. Phillips			DATE:	3/14/2003	
ASPHALT OVERLAY THICKNESS		0.2 FT =	2.40 IN		
BASE THICKNESS		0 FT =	0.00 IN		
NO.	DESCRIPTION	QUANTITY	UNITS	UN/PRICE	EXTENSION
1	AC GRINDING - 10TH STREET	2660	SY	6.00	15,960 *
2	AC GRINDING - 11TH STREET	2660	SY	6.00	15,960 *
3	AC OVERLAY - 10TH STREET	23940	SF	1.00	23,940 *
4	AC OVERLAY - 11TH STREET	23940	SF	1.00	23,940 *
5	INSTALL 12" PVC WATERLINE	500	LF	80.00	40,000
6	INSTALL TWO WATER SERVICES	100	LF	50.00	5,000
7					0
8	RELOCATE FIBER OUT OF ALLEY	1	LS	173,500.00	173,500
9	RELOCATE STREET LIGHT CIRCUIT OUT OF ALLEY	1	LS	5,000.00	5,000
10					0
11	STREET TREES (City O&M)	33	EA	1,500.00	49,500
12	CLEAN & FLUSH STORM DRAIN PIPE (City O&M)	2000	LF	1.00	2,000
13	CLEAN & FLUSH SANITARY SEWER PIPE (City O&M)	1000	LF	1.00	1,000
14	INSTALL 10" VCP (City O&M)	50	LF	60.00	3,000
15					0
16	TRAFFIC CONTROL	1	LS	5,000.00	5,000 *
17					0
18	BUDGET CONTINGENCY	20	PCT.	0.20	72,750 *
EXPENDITURE CODE					
CONSTRUCTION CONTRACT		6040			436,560
				PERCENT	
ENGINEERING/DESIGN/ADMINISTRATION		6010		12%	52,387
CONSTRUCTION ADMINISTRATION		6060		10%	43,656
CONSTRUCTION CONTINGENCY		6050		5%	21,828
ENVIRONMENTAL		6001			
UTILITY RELOCATIONS		6020			
RIGHT OF WAY		6030			
OTHER		6070			
PROJECT TOTAL					\$554,000
*PORTION OF MANDATORY COSTS FUNDED BY RDA:					
1	AC GRINDING - 10TH STREET	2660	SY	6.00	15,960 *
2	AC GRINDING - 11TH STREET	2660	SY	6.00	15,960 *
3	AC OVERLAY - 10TH STREET	23940	SF	1.00	23,940 *
4	AC OVERLAY - 11TH STREET	23940	SF	1.00	23,940 *
16	TRAFFIC CONTROL	1	LS	5,000.00	5,000 *
18	BUDGET CONTINGENCY	20	PCT.	0.20	16,960
EXPENDITURE CODE					
CONSTRUCTION CONTRACT		6040			101,760
				PERCENT	
ENGINEERING/DESIGN/ADMINISTRATION		6010		12%	12,211
CONSTRUCTION ADMINISTRATION		6060		10%	10,176
CONSTRUCTION CONTINGENCY		6050		5%	5,088
ENVIRONMENTAL		6001			
UTILITY RELOCATIONS		6020			
RIGHT OF WAY		6030			
OTHER		6070			
PROJECT TOTAL					\$129,000

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-159**

**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, and

WHEREAS, this item was brought before the Finance Policy Committee on February 23, 2003, and

WHEREAS, the Finance Policy Committee unanimously approved the classification and salary range for the Senior Business Analyst, and

WHEREAS, the Finance Policy Committee voted 2 to 1 to approve the classification and salary range for the Business Development Division Manager.

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

SECTION I. CLASSIFICATIONS CREATED. The Position Classification Plan of the City of Modesto is hereby amended to establish the following classifications:

Senior Business Analyst

Recreate the job classification of Senior Business Analyst at Range 438 (\$4,813-5,854/month) that was deleted by Council action in June of 2001 with the creation of a Business Development Manager.

Business Development Division Manager

Recreate the Business Development Division Manager at Range 447 (\$6,011-7,323/mo.) as a single position class, and moving the incumbent into the Division Manager position.

The specification for the management classification of Senior Business Analyst, (Range 438), as shown on the attached Exhibit "A", and the specification for the management classification of Business Development Division Manager (Range 447), as shown on attached Exhibit "B", assigned to the Management and Confidential Bargaining Unit, which are hereby made a 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 March 25, 2003.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Fisher, Frohman, Jackman, Keating, O'Bryant Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

SENIOR BUSINESS ANALYST

DEFINITION

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.

To assist the Business Development Division Manager in the planning, coordination, and implementation of activities which promote the City's economic development and redevelopment efforts with emphasis on the recruiting and attracting new business and industry, the retention of current business investments and the expansion of the community's economic base; to supervise and administer staff involved in these functions; to assist in the preparation of operating and capital budgets; and to provide complex staff assistance to the Director.

SUPERVISION RECEIVED AND EXERCISED:

Receives general direction from the Business Development Division Manager. Exercises direct supervision over professional, technical and clerical staff as assigned by the Division Manager.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

Recruit business prospects; assist them in the setting and permitting of their businesses both within the redevelopment area and citywide.

Work with existing businesses, both in the redevelopment area and citywide, to protect and expand their investments in the local economy.

Assist the Division Manager in the development of the economic development workplan; assign work activities, projects and programs; monitor workflow; implement policies and procedures.

Assist Department Director with the evaluation of proposals containing incentives to help broaden the local tax bases, generate or attract new capital, increase business activity, produce jobs and diversify the local economy.

ESSENTIAL FUNCTIONS, Continued

Develop and manage databases pertinent to business retention and recruitment efforts.

Develop and implement public relations and marketing programs to communicate and promote City to prospective businesses through trade shows, publications and exhibits.

Research and maintain a variety of information regarding properties, economic and land use data within the City and provide information to prospective businesses.

Investigates economic and redevelopment grants from Federal, State and regional economic development entities to assist in furthering the City's business attraction and retention, affordable housing construction and rehabilitation, downtown revitalization, marketing, and brownfield remediation activities. Responsible for preparing grant applications and administering grants acquired.

Create and analyze proformas and other financial documents; analyze real estate transactions; analyze business loan and grant requests, incentive proposals and return on investment analyses.

Negotiate, prepare, and supervise the processing of documents such as disposition and development agreements, owner participation agreements, contract, resolutions, and requests for proposals/qualifications.

Coordinate the City's and Redevelopment Agency's business development activities with other public and private agencies, including the rest of the City organization.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Participate in the development and implementation of the City's and Redevelopment Agency's operating and capital improvement budgets.

Research redevelopment and economic development problems and solutions and prepare a variety of comprehensive reports.

MARIGINAL FUNCTIONS:

Perform related duties and responsibilities, as required.

QUALIFICATIONS

Knowledge of:

Principles and practices of business development, redevelopment, financing programs and real estate.

Pertinent laws, codes and regulations relating to land acquisition, real estate transactions and environmental issues.

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

Methods and techniques of statistical analysis, effective technical report preparation and presentation (both oral and graphic).

Principles of budget preparation and expenditure control.

Property values and effect of economic trends on value and price.

General legal authority and parameters for carrying out bonds, grants, assessment, loans and other financial transactions.

Ability to:

Gather and analyze a variety of complex data, including economic studies, financial statements, marketing studies, plans, specifications, and bid documents; prepare comprehensive written and oral reports.

Negotiate and manage contracts, leases, agreements, loans, and rebates with Business Development customers and clients.

Identify and respond to community and City Council issues, concerns, and needs.

Communicate clearly and concisely, both orally and in writing.

Ability to, Continued

Establish and maintain cooperative-working relationships with those contacted in the course of work, including a variety of City and other government officials, consultants, realtors, community groups, business owners, and the general public.

Supervise, evaluate and train assigned staff.

Assist with the preparation and administration of departmental operating and capital improvement budgets and monitoring systems.

Analyze economic studies, financial statements, marketing studies, plans, specifications and bid documents.

Ensure project and grant compliance with Federal, State and local rules, laws and regulations.

Prepare and analyze technical and administrative reports, statements and correspondence.

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 business and community development, redevelopment project management, or real estate finance and development, including at least one year of administrative and supervisory experience.

Education:

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

License:

Possession of, or the ability to obtain, an appropriate and valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office Environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

BUSINESS DEVELOPMENT DIVISION MANAGER

DEFINITION

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.

To manage, supervise and administer the division; to assist in the preparation of operating and capital improvement budgets; and to provide complex staff assistance to the department Director on economic development, redevelopment, workforce development and affordable housing programs, projects and activities.

SUPERVISION RECEIVED AND EXERCISED:

Receives administrative direction from the Community and Economic Development Director.

Exercises direct supervision over professional, technical and clerical staff in assigned area.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

Manage, direct and organize division activities in the areas of development finance, asset management, redevelopment, business retention and recruitment, business loans, work force development and development regulations.

Implement goals, objectives, policies and priorities for the City's economic and redevelopment programs; identify resource needs.

Supervise negotiation and preparation of documents such as disposition and development agreements, owner participation agreements, contracts, resolutions, and requests for proposals/qualifications.

Monitor activities of City consultants, including preparing and administering contracts.

Negotiate development agreements with proponents of private development projects.

ESSENTIAL FUNCTIONS, Continued

Administer property management and land acquisition policies and strategies.

Evaluate complex revenue and other financial analysis studies used in financial and budgetary planning, assessment districts, tax increment financing, and business loans.

Evaluate revenue projects; investigate and recommend appropriate sources of funding for projects relating to the division.

Review impact of economic and redevelopment regulations and laws; make recommendations for legislative amendments; and represent the City with regulatory and other governmental agencies.

Evaluate proposals containing incentives to help broaden the local tax bases, generate or attract new capital, increase business activity, produce jobs and diversify the local economy.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Administer the division budget; direct the forecast of funds needed for departmental goals; monitor and approve expenditures; implement mid-year adjustments.

Direct, oversee and participate in the development of the division's workplan; assign work activities, projects and programs; monitor workflow; implement policies and procedures.

Appear before the City Council, the Redevelopment Agency, boards, commissions, local business representatives and related governmental, non-profit and civic organizations, representing the Division.

Coordinate Division activities with those of other departments and outside agencies and organizations; prepare and present staff reports and other necessary correspondence.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of business development, redevelopment, financing programs and real estate.

Property values and effect of economic trends on value and price.

Pertinent laws, codes and regulations relating to land acquisition, real estate transactions and environmental issues.

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

Methods and techniques of statistical analysis, effective technical report preparation and presentation (both oral and graphic).

Principles of budget preparation and expenditure control.

General legal authority and parameters for carrying out bonds, grants, assessment, loans and other financial transactions.

Ability to:

Assist with the preparation and administration of departmental operating and capital improvement budgets and control budget expenditures.

Effectively manage assigned areas of the departmental program.

Analyze economic studies, financial statements, marketing studies, plans, specifications and bid documents.

Supervise, evaluate and train assigned staff.

Interpret and apply pertinent laws, rules and regulations.

Ensure project and grant compliance with Federal, State and local rules, laws and regulations.

Ability to. Continued:

Prepare and analyze technical and administrative reports, statements and correspondence.

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

Communicate clearly and concisely, both orally and in writing.

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 increasingly responsible experience in development finance, business development, redevelopment or a related field including at least two years of administrative and supervisory experience.

Training:

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

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office Environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-160**

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2002-307 TO AMEND THE CLASS RANGE TABLE FOR MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR THE CLASSIFICATIONS OF SENIOR BUSINESS ANALYST AND BUSINESS DEVELOPMENT DIVISION MANAGER EFFECTIVE MARCH 25, 2003.

WHEREAS, the City Council desires to amend **Exhibit "A"** of Resolution No. 2002-307, and

WHEREAS, this item was brought before the Finance Policy Committee on February 23, 2003, and

WHEREAS, the Finance Policy Committee unanimously approved the classification and salary range for the Senior Business Analyst, and

WHEREAS, the Finance Policy Committee voted 2 to 1 to approve the classification and salary range for Business Development Division Manager.

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2002-307. **Exhibit "A"** entitled "City of Modesto Class Range Table Management and Confidential Non-Sworn Classes Effective June 18, 2002", is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table Management and Confidential Non-Sworn Classes Effective March 25, 2003, 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 Senior Business Analyst at Range 438 and Business Development Division Manager at Range 447.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after March 25, 2003.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Fisher, Frohman, Jackman, Keating, O'Bryant Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective March 25, 2003

Exhibit "A"

RANGE	TITLE
-------	-------

403	Administrative Office Assistant I (Confidential)
407	Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Senior Personnel Clerk
414	
415	Senior Administrative Office Assistant (Confidential)
416	
417	
418	Legal Secretary
419	Police Training and Records Technician (Confidential) Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary Legal Services Technician Systems Technician Workers' Compensation Claims Examiner I
421	

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor
423	Custodian Supervisor
424	Assistant Planner Buyer Workers' Compensation Claims Examiner II
425	Administrative Analyst I Executive Assistant Paralegal
426	Police Support Services Supervisor Stores Manager
427	Assistant City Clerk/Auditor Legal Services Administrator
428	Accountant II Customer Services Specialist Customer Services Supervisor Senior Buyer
429	
430	Associate Planner Events Supervisor I Junior Civil Engineer Senior Crime Analyst Social Services Program Supervisor
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Geographic Information Systems Analyst Personnel Analyst Recycling Program Coordinator Senior Community Development Program Specialist Systems Analyst

RANGE TITLE

- 432 Communications Specialist
 Industrial Waste Supervisor
 Neighborhood Preservation Supervisor
 Operations and Maintenance Supervisor
 Recreation Supervisor II
 Senior Accountant
 Water Quality Control Maintenance Supervisor
 Water Quality Control Operations Supervisor
 Youth Program Supervisor

- 433 Organizational Development Specialist

- 434 Arborist
 Assistant Civil Engineer
 Assistant Traffic Engineer
 Budget Analyst II
 Electrical Supervisor
 Events Supervisor II
 Geographic Information Systems Coordinator
 Operations Supervisor
 SCADA Supervisor
 Senior Housing Rehabilitation Specialist
 Senior Programmer Analyst

- 435 Business Analyst
 Cultural Services Manager
 Integrated Waste Specialist
 Management Analyst
 Senior Personnel Analyst

- 436 Senior Planner

- 437 Deputy City Attorney I

- 438 Budget Officer
 Communications and Marketing Manager
 Development and Operations Coordinator
 Financial/Investment Officer
 Housing Program Supervisor
 Land Surveyor
 Property Agent
 Purchasing Supervisor
 Senior Business Analyst

RANGE	TITLE
-------	-------

438 (continued)

Systems Engineer
Transportation Planner

439 Administrative Services Officer
Community Facilities Districts Administrative Officer

440 Associate Civil Engineer
Associate Traffic Engineer

441 Airport Manager
Assistant Personnel Director
Building Maintenance Superintendent
Deputy City Attorney II
Fire Marshal
Fleet Manager
Golf Services Manager
Parks Operations Superintendent
Parks Planning and Development Manager
Police Records Manager
Recreation Superintendent
Risk Manager
Solid Waste Program Manager
Streets Engineer
Transit Manager
Urban Forestry Superintendent
Wastewater Collections Superintendent
Water Superintendent

442 Customer Services Division Manager
Information Services Manager
Manager of Budget and Financial Analysis
Supervising Building Inspector
Supervising Construction Inspector

443 Senior Deputy City Attorney I

444 Business Development Manager
Deputy Chief Building Official
General Services Manager
Principal Planner

RANGE TITLE

445 Accounting Division Manager
 Housing and Neighborhoods Division Manager

446 Water Quality Control Superintendent

447 Assistant to City Manager
 Business Development Division Manager
 Chief Building Official
 Planning Division Manager
 Senior Civil Engineer
 Traffic Engineer

448

449 Senior Deputy City Attorney II

450

451

452 Deputy Director – Cultural and Enterprise Services
 Deputy Director – Engineering & Transportation
 Deputy Director of Finance
 Deputy Director – Operations and Maintenance
 Deputy Director – Recreation and Neighborhoods

453

455 Assistant City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-161**

**A RESOLUTION AUTHORIZING APPROVAL OF THE WATER SUPPLY
ASSESSMENT STUDY (WSA) PREPARED FOR THE RIVER RANCH
SPECIFIC PLAN AREA AND DIRECTING CITY STAFF TO FORWARD THE
WSA TO STANISLAUS COUNTY**

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct Water Supply Assessment (WSA) studies for projects meeting the legislative criteria, and

WHEREAS, the City of Modesto received a request from Stanislaus County to conduct such a study for the proposed River Ranch Specific Plan area near Salida, and

WHEREAS, Engineering and Transportation staff completed the WSA, and

WHEREAS, a determination was made that an adequate water supply is not available at this time for the River Ranch Specific Plan (RRSP) project, generally located near the community of Salida, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on March 10, 2003, and a favorable recommendation was made to forward the WSA to the Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment Study for the proposed River Ranch Specific Plan area near Salida is hereby approved determining that an adequate water supply is not available at this time for the River Ranch Specific Plan project.

BE IT FURTHER RESOLVED that City staff is hereby directed to forward the Water Supply Assessment Study to Stanislaus County, as required by SB610.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-162**

**A RESOLUTION APPROVING IMPLEMENTATION OF STAGE ONE OF THE
CITY OF MODESTO DROUGHT CONTINGENCY PLAN AND RESCINDING
RESOLUTION 98-380.**

WHEREAS, on November 5, 1997, the City Council approved the City of Modesto Drought Contingency Plan via Resolution No. 91-666, which provides for the staged response to conditions of projected shortfall in the City's water supply system, and

WHEREAS, the Drought Contingency Plan of the City of Modesto provides that when the City determines that a minor shortage potential exists that a Stage One drought condition can and shall be declared, and

WHEREAS, Section 11-1.14 of the Modesto Municipal Code authorizes the City Council to establish rules and regulations by resolution concerning the City's municipal water system, the use of water, and water conservation, and

WHEREAS, on July 21, 1998, the City Council adopted Resolution No. 98-380 entitled, "*A Resolution Revising Guidelines for Water Use During Stage One Drought Conditions, and Rescinding Resolution No. 91-666*" which eliminated the requirement that outdoor water use occur only on certain days of the week based on the street address, and

WHEREAS, on March 10, 2003, the City Council Economic Development Committee approved a staff recommendation to implement the City's Stage One Drought Contingency Plan and to reinstate the alternate day outdoor water use schedule based on the street address effective May 1, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the implementation of Stage One of the Drought Contingency Plan effective May 1, 2003, to include the requirement for alternate day outdoor water use schedule based on a street address, as follows:

SECTION 1. The Operations & Maintenance Department, or its agents, shall implement the strategies and enforcement procedures applicable during a Stage One Drought Condition as provided in the City's Drought Contingency Plan.

SECTION 2. In accordance with the Drought Contingency Plan, the following rules and regulations are established for use during a Stage One Drought Condition. Violations of these regulations shall be considered water waste.

1. Outdoor water use shall be prohibited daily from 12:00 p.m. to 7:00 p.m.
2. Odd-numbered addresses shall water outdoors only on Wednesdays, Fridays, and Sundays.
3. Even-numbered addresses shall water outdoors only on Tuesdays, Thursdays, and Saturdays.
4. No outdoor water use is permitted on Mondays.
5. City residents shall not wash cars without the use of a quick-acting positive shut-off nozzle or permit others to do so on their behalf. In addition, car washing must be done in compliance with the schedule for outdoor water use. There shall be no washing of building exteriors, mobile home exteriors, recreational vehicle exteriors, sidewalks, patios, driveways, gutters, or other exterior surfaces unless a permit is issued by

the Operations & Maintenance Director or his designee and the washing is done with a quick-acting positive shut-off nozzle on the hose.

6. City residents shall not have leaky faucets or plumbing fixtures on their premises for more than 24-hours after the leak has been identified or notice has been received from the City, whichever comes first.
7. Eating establishments are encouraged to serve water only at the customer's request.
8. New landscaping installations must comply with all applicable landscape ordinances.
9. Exceptions to the regulations set forth herein may be made by the Operations & Maintenance Director or his authorized designee upon a showing of good cause and necessity.
10. The following penalties may be added to the utility service customer's account upon violation of the above regulations:
 - a. A penalty in the sum of \$50 upon the second violation within one year after having received a Notice of Violation.
 - b. A penalty of \$200 upon the third violation within said one-year period.
 - i. Upon the third violation within one year of having received a Notice of Violation, the resident shall also have a water meter installed if one is not present and metered billing shall commence.

- c. A penalty of \$250 upon the fourth and any subsequent violations within said one-year period.
- d. The customer shall be advised of these charges through a Notice of Intention to Impose a Penalty.

BE IT FURTHER RESOLVED that Resolution No. 98-380 is hereby rescinded effective April 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-163**

A RESOLUTION APPROVING A MUNICIPAL MASTER LEASE (“AS AMENDED”) WITH DELL MARKETING L.P FOR INFORMATION TECHNOLOGY HARDWARE PRODUCTS AND SERVICES FOR A PERIOD OF 36 MONTHS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MUNICIPAL MASTER LEASE AND AMENDMENT TO MUNICIPAL MASTER LEASE AGREEMENT.

WHEREAS, five years ago the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete tech equipment, and

WHEREAS, in the five years since the replacement fund was established, 326 of our total inventory of 920 personal computers have been replaced through the fund, and

WHEREAS, the customers that IT supports have not been serviced appropriately by this cycle and have had to use their own funds to meet their technology needs, 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, the City is desirous of entering into a Municipal Master Lease (“as Amended”) with Dell Marketing for Information Technology Hardware Products and Services for a period of 36 months, and

WHEREAS, in reviewing the Dell leasing program, it has been determined that the City could adopt a 3 year replacement program for an annual investment of \$396,158 as (compared to the average \$487,748 that the City has been spending for technical replacement), and

WHEREAS, the leasing program would allow us to begin the three year replacement program immediately, thereby saving approximately \$420,000 during the first two years of the program, based on the ramp-up factor of the lease, and

WHEREAS, IT views this program as a cost effective measure for the City, emphasizing reduction of the Total Cost of Ownership (TCO) for our 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 three 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, last year during the budget process Council instructed the IT Department to explore the lease vs. buy option for the City's personal computers, and

WHEREAS, this 3 year lease program has been approved by the Finance Committee to go to Council for full review.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Municipal Master Lease ("as amended") with Dell Marketing L.P. for Information Technology hardware products and services for a period of 36 months (an annual report will be submitted to the Finance Committee).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a Municipal Master Lease and Amendment to Municipal Master 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 March, 2003, by Council member Keating, who moved its adoption, which motion being duly seconded by Council member Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-164**

A RESOLUTION APPROVING A THREE (3) YEAR CONTRACT WITH MAZE & ASSOCIATES TO PROVIDE EXTERNAL AUDIT SERVICES TO PERFORM ANNUAL FINANCIAL AUDITS OF THE CITY OF MODESTO, WITH THE OPTION TO EXTEND THE CONTRACT FOR TWO (2) ONE YEAR TERMS, IN THE AMOUNT OF \$104,405 FOR FY 2003, \$107,645 FOR FY 2004, AND \$110,979 FOR FY 2005, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, by Resolution No. 2003-28 the City Council, on January 14, 2003, directed the Audit Committee, with assistance from the City Clerk & Auditor and Finance Department staff, to obtain proposals for audits of the City of Modesto financial statements, and

WHEREAS, the Audit Committee has received seven responses to its Requests for Proposals for these audit services, and

WHEREAS, on March 13, 2003, the Audit Committee has interviewed the four audit firms best qualified, in its judgment, to perform these audit services, and

WHEREAS, the Audit Committee has recommended Maze and Associates, An Accountancy Corporation, as the audit firm best qualified to perform these audit services,

WHEREAS, Maze and Associates will perform said audit services for the contract price of \$104,405 for FY 2003, \$107,645 for FY 2004, and \$110,979 for FY 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approved a three (3) year contract with Maze & Associates, with the option to extend the contract for two (2) one-year terms, at the contract price of \$104,405 for FY 2003, \$107,645 for FY 2004, and \$110,979 for FY 2005,

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 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -165**

A RESOLUTION APPROVING AN AMENDMENT TO A PROFESSIONAL SERVICE AGREEMENT WITH SHUTT MOEN ASSOCIATES, DATED SEPTEMBER 24, 2002, THAT ALLOWS THE NAME CHANGE OF THE CONSULTANT FROM SHUTT MOEN ASSOCIATES TO MEAD & HUNT, INC.; INCREASING THE CONTRACT AMOUNT \$13,000.00 FOR ADDITIONAL WORK; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THIS AMENDMENT TO THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, the City Council approved on September 24, 2002 an agreement with Shutt Moen Associates to perform engineering services for the reconstruction of Runway 10L/28R at Modesto City-County Airport, and

WHEREAS, the firm of Shutt Moen Associates recently merged with the firm of Mead & Hunt, Inc., and

WHEREAS, Shutt Moen Associates is requesting that the name of the engineering firm on the agreement be changed from Shutt Moen Associates to Mead & Hunt, Inc., and

WHEREAS, Shutt Moen Associates has notified the City that the principals completing the project will be the same as listed in the agreement dated September 24, 2002, and

WHEREAS, this amendment also includes an increase of \$13,000.00 to complete the following additional work:

1. Additional engineering to prepare plans and specifications for the runway light replacement - \$8,000.00; and
2. Update of the airport's master record - \$5,000.00, and

WHEREAS, the Federal Aviation Administration has given verbal approval to increase the runway reconstruction engineering and include the replacement of the high intensity runway lights, as well as update the airport master record, and

WHEREAS, the Council Economic Development Committee approved the Amendment to the Agreement at their meeting on March 10, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with Shutt Moen Associates, dated September 24, 2002, that allows a change in the name of the consultant firm to Mead and Hunt, Inc., and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves an increase of \$13,000.00 in the engineering fees to Mead and Hunt, Inc., for completion of plans and specifications for the replacement of the airport's high intensity runway lights, and updating the airport's master record, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to the Agreement with Mead & Hunt, Inc., on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-166**

A RESOLUTION ACCEPTING THE BID AND AWARDING AMERINE SYSTEMS, INC. THE CONTRACT FOR THE PROJECT TITLED "WELL 312, SOUTH STREET, EMPIRE"

WHEREAS, the bids received for Well 312, South Street, Empire, were opened at 11:00 a.m. on July 16, 2002, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$230,888 received from Amerine Systems, Inc., be accepted as the lowest responsible bid and the contract be awarded to AMERINE SYSTEMS, INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of AMERINE SYSTEMS, INC., and hereby awards AMERINE SYSTEMS, INC., the contract titled "Well 312, South Street, Empire" in the amount of \$230,888.

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 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-167**

**A RESOLUTION ACCEPTING THE BID AND AWARDING R. E. MCCOLLUM
THE CONTRACT FOR THE PROJECT TITLED "PUMP STATION 65 AT
TANK 5"**

WHEREAS, the bids received for "Pump Station 65 at Tank 5" were opened at 11:00 a.m. on September 10, 2002, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, all four (4) of the bids received exceeded the engineer's estimate but reflect the current market for the work, with R.E. MCCOLLUM submitting the lowest bid for the project, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$501,467.00 received from R. E. MCCOLLUM, be accepted as the lowest responsible bid, and the contract be awarded to R.E. MCCOLLUM,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of R.E. MCCOLLUM, and hereby awards R.E. MCCOLLUM the contract titled "Pump Station 65 at Tank 5" in the amount of \$501,467.00.

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 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-168**

A RESOLUTION ACCEPTING WASTE MANAGEMENT'S OFFER OF A USED WATER TRUCK VALUED AT APPROXIMATELY \$90,000 TO COMPENSATE THE CITY OF MODESTO CO-COMPOST FACILITY FOR LOST REVENUES AND DAMAGES AS A RESULT OF WASTE MANAGEMENT'S FAILURE TO MEET THE PERFORMANCE REQUIREMENTS OF THEIR SERVICE AGREEMENT WITH THE CITY.

WHEREAS, on November 1, 1997, the City of Modesto executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was a subsidiary of USA Waste of California. USA Waste's parent company later acquired Waste Management, and changed the name of the corporate parent to Waste Management, and

WHEREAS, Section x 3 of that Service Agreement states: "Containerized yard waste collected under the terms of this Agreement will be taken to the CITY's composting facility or such other locations as directed by the Engineering and Transportation Director. COLLECTOR shall be responsible for the removal of contaminants from the yard waste to an acceptable level as determined by the CITY. The cost of said removal, where reasonable and necessary as determined by the CITY, will be made a component of the maximum rate. The CITY reserves the right to reject or direct to alternative disposal any loads determined to be too contaminated to process," and

WHEREAS, the Modesto Municipal Code Section 5-5.32 prohibits any part of a Service Agreement from being assigned to another party without the prior written approval of the City Council. If a hauler wants to use a contractor to provide some of the services it is obligated to provide, it has to get the City's permission in advance.

Performance breaches of the Service Agreement are subject to penalties, including termination of the Agreement and/or fines, and

WHEREAS, in August, 2002, the City became aware that Waste Management was not bringing all of the green waste it collects in the City to the City's composting facility, and that the local District Manager at that time, began hauling the City's green waste to other facilities beginning in January, 2002, without City approval, and

WHEREAS, it was determined that approximately 4,687 tons of the City's green waste had been diverted to other facilities, impacting the City's ability to meet deliveries of compost under its contracts and losing approximately 5,624 cubic yards of finished product, and

WHEREAS, by Waste Management failing to bring the green waste to the City's compost facility for composting, the facility suffered damages of approximately \$90,000, the current sales price of \$15 per cubic yard and a monetary damage value to the loss of long-term relationships with clients and our inability to meet deliveries, and

WHEREAS, Waste Management has changed its local management as a result of the City's investigation, and in order to resolve this matter, the new District Manager, Mr. Desi Reno, has proposed Waste Management compensate the City for economic losses at the facility caused by the diversion by purchasing a used water truck for the facility, and

WHEREAS, the permits for the compost facility require that a water truck be on site at all times for dust control, however, competing needs for this type of equipment from other City operations have strained the City's ability to meet this requirement for dust suppression, and during recent inspections by the Air Board, the inspectors have reiterated that it is necessary to have a water truck on site at all times to meet their permit

requirements. Non-compliance with this permit condition could result in the issuance of a Notice of Violation, and

WHEREAS, compost facility staff have determined that it would be possible to obtain a water truck in good condition of the type and capacity to meet the facility's needs for approximately \$90,000 and had been proposing to include funds for such a purchase in the 2003 budget, and

WHEREAS, Mr. Reno has proposed that Waste Management compensate the City for economic losses at the facility by purchasing a water truck for the facility for approximately \$90,000, and

WHEREAS, at its March 10, 2003, meeting, the Economic Development Committee recommended its support of Waste Management's offer to purchase a water truck for the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby accepts Waste Management's offer of a used water truck valued at approximately \$90,000 to compensate the City's co-compost facility for lost revenues and damages as a result of Waste Management's failure to meet the performance requirements of its Service Agreement with the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -169**

A RESOLUTION REJECTING THE PROPOSALS RECEIVED FROM AVIS RENT A CAR SYSTEM, INC., AND THE HERTZ CORPORATION TO OPERATE A RENTAL CAR CONCESSION IN THE PASSENGER TERMINAL AT MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING CITY STAFF TO REDRAFT A NEW RFP BASED ON CURRENT MARKET CONDITIONS FOR COUNCIL CONSIDERATION

WHEREAS, on October 8, 2002, the City Council approved the solicitation of Request for Proposals (RFPs) from car rental companies interested in operating a rental car concession in the Modesto City-County Airport passenger terminal, and

WHEREAS, the RFP specified the minimum amount the City would accept as payment for the privilege of doing business at the airport, and

WHEREAS, airport staff received four inquiries from interested car rental companies; however, only AVIS RENT A CAR SYSTEMS, INC., and THE HERTZ CORPORATION submitted their proposals by the required deadline of January 22, 2003, and

WHEREAS, neither the proposal from AVIS RENT A CAR SYSTEMS, INC., nor THE HERTZ CORPORATION met the City's advertised required minimums, and

WHEREAS, ENTERPRISE RENT-A-CAR intended to submit a proposal but was unable to do so by the City's deadline, and

WHEREAS, City staff believes that recent changes in the economy have changed the car rental marketplace and the attractiveness of the airport outlet to car rental companies, and staff further believes that if the RFP is updated to current market conditions more interest in the airport concession may be shown,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby rejects the proposals received from AVIS RENT A CAR SYSTEMS, INC., and THE HERTZ CORPORATION.

BE IT FURTHER RESOLVED that City staff is hereby authorized to redraft a new RFP based on current market conditions for Council's consideration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-170**

A RESOLUTION OF INTENTION TO CONSIDER THE REQUEST OF RUDY BONZI, INC. TO ENTER INTO A SERVICE AGREEMENT WITH THE CITY OF MODESTO FOR THE COLLECTION OF INDUSTRIAL GARBAGE, SALVAGEABLE WASTE, AND INDUSTRIAL RECYCLABLES AND SETTING A PUBLIC HEARING ON APRIL 22, 2003, TO CONSIDER SAID MATTER.

WHEREAS, on January 8, 2003, the City Clerk received a permit application request from Rudy Bonzi, Inc. to obtain a license to collect industrial garbage, salvageable waste, and industrial recyclables in the City of Modesto, and

WHEREAS, on March 10, 2003, the Economic Development Committee met and supported the request of Rudy Bonzi, Inc., and

WHEREAS, Modesto Municipal Code section 5-5.17 requires that collection companies enter into Service Agreements with the City in order to provide solid waste collection services, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.24, the City Council shall hear such requests at a public hearing, on Tuesday, April 22, 2003, 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 Tuesday, April 22nd, 2003, at 5:30 p.m., in the Tenth Street Chambers located at 1010 10th Street, Modesto, California, is hereby set as the date, time and place for a public hearing to be held to consider the request of Rudy Bonzi, Inc., to enter into a service agreement with the City of Modesto for the collection of industrial garbage, salvageable waste, and industrial recyclables.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-171**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR NATIONAL ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FUNDS IN THE AMOUNT OF \$256,297 AND TO EXECUTE THE NECESSARY GRANT APPLICATION DOCUMENTS.

WHEREAS, the Congress, under Public Law 107-73, has authorized the establishment of the Federal Fire Protection and Control Act and has appropriated \$360 million dollars to carry out the Assistance to Firefighter's Grant Program, and

WHEREAS, the Federal Emergency Management Agency (FEMA) is responsible for administration of the program, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by the Federal Emergency Management Agency require the applicant to provide 30% local matching funds, and

WHEREAS, the City of Modesto and Modesto Fire Department qualify to submit a grant request, and

WHEREAS, the Public Safety Committee met on March 31, 2003 and recommended support for this grant application,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby:

1. Authorizes the filing of an application for Assistance to Firefighter's Grant Program funds.
2. Certifies that said agency has matching funds from the following source: Fire Department Operating Budget, and can finance 100 percent of the project, 70% of which will be reimbursed.

3. Authorizes the City Manager, or designee, as agent of the City to execute and submit the necessary grant application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED-AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 172**

A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL 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 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 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 1st day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

MONTHLY FY 02-03 ADJUSTMENTS - BUDGET SHEET

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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Budget Adjustments for the Month of March 2003

Department: Parks, Recreation & Neighborhood

N995 - ADA Curb Cuts 01-02 ADA Curb Ramps

1)	Appropriation	Eng/Dsgn/Adm	2300	320	N995	6010	N995	\$104,000	(\$70,388)	\$33,612
	Appropriation	Construction	2300	320	N995	6040	N995	\$416,000	(\$270,348)	\$145,652
	Appropriation	Contingency	2300	320	N995	6050	N995	\$64,000	(\$41,592)	\$22,408
	Appropriation	Constr Admin	2300	320	N995	6060	N995	\$64,000	(\$41,592)	\$22,408
1)	Revenue	Transfer in from Fund 0100	2300	700	N995	9010	na	\$50,000	(\$50,000)	\$0
	Appropriation	Transfer out to Fund 2300	0100	700	N995	7230	N995H	\$50,000	(\$50,000)	\$0
	Revenue	Transfer in from Fund 1130	2300	700	N995	9113	na	\$598,000	(\$373,920)	\$224,080
	Appropriation	Transfer out to Fund 2300	1130	700	N995	7230	N995G	\$598,000	(\$373,920)	\$224,080

Justification N995 includes FY01-02 and FY02-03 ADA Curb Ramps, and FY02-03 ADA Signal Devices
 HUD requires that we report funding for activities by year, so it is necessary to split N995 to a total of three (3) separate projects.
 These projects are not CIP by definition; therefore, operating project numbers 3210 & 3211 were created.

3210 - 02-03 ADA Curb Ramps

2)	Appropriation	Eng/Dsgn/Adm	1130	320	3210	6010	3250	\$0	\$62,888	\$62,888
	Appropriation	Construction	1130	320	3210	6040	3250	\$0	\$237,848	\$237,848
	Appropriation	Contingency	1130	320	3210	6050	3250	\$0	\$36,592	\$36,592
	Appropriation	Constr Admin	1130	320	3210	6060	3250	\$0	\$36,592	\$36,592
2)	Revenue	CDBG Operating Grant Carryover	1130	320	3210	3511	na	\$0	\$373,920	\$373,920

Justification Same as item 1.

3211 - 02-03 ADA Signal Devices

3)	Appropriation	Eng/Dsgn/Adm	1130	320	3211	6010	3250	\$0	\$7,500	\$7,500
	Appropriation	Construction	1130	320	3211	6040	3250	\$0	\$32,500	\$32,500
	Appropriation	Contingency	1130	320	3211	6050	3250	\$0	\$5,000	\$5,000
	Appropriation	Constr Admin	1130	320	3211	6060	3250	\$0	\$5,000	\$5,000
3)	Revenue	Transfer in from Fund 0100	1130	700	3211	9010	na	\$0	\$50,000	\$50,000

Justification Same as item 1.

Department: Operations & Maintenance

1)	Appropriation	General Fund Reserve	0100	800	8000	8003	0100R	(\$2,213,641)	\$27,703	(\$2,241,344)
	Appropriation	Part-time labor	0100	480	4712	0140	4800A	\$47,450	\$822	\$48,272
	Appropriation	Advertising - Informational Flyers	0100	480	4712	0230	4800C	\$0	\$335	\$335
	Appropriation	Insecticide Machinery Rental	0100	480	4712	0308	4800C	\$26,128	\$720	\$26,848
	Appropriation	Merit Insecticide	0100	480	4712	0310	4800C	\$65,000	\$25,826	\$90,826
									\$27,703	

Justification Appropriation transfer from General Fund Reserve to Community Forestry operating accounts to fund the unexpected costs of mitigating Woolly Hackberry Aphid infestation which occurred during the summer/fall of 2002.

2)	Appropriation	Other Facilities CFF	1380	800	8000	8003	1380R	\$0	(\$150,000)	(\$150,000)
	Transfer-Exp	Transfer to 7200	1380	700	7000	7720	1380G	\$0	\$150,000	\$150,000
	Transfer-Rev	Receive transfer from 1380	7200	700	7000	9138		\$0	\$150,000	\$150,000
	Appropriation	CIP Light Vehicle Police Facility	7200	480	J879	6040	J879	\$140,511	\$150,000	\$290,511

Justification Appropriate money from CFF fund to fund 7200 for light vehicle maintenance building
 Transfer was shown in the proforma, but it was not entered into the CIP book and no Blue Sheet was done to carryout the Transfer

MONTHLY FY 02-03 ADJUSTMENTS - WORKSHEET

Type of Account	Description	Fund	Agency	Orgn	Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
file: Budget2003\monthly_adjustments_template									
3)	Appropriation Gas Tax-Reserve	0700	800	8000	8003	0700R	(\$4,751,515)	(\$60,293)	(\$4,811,808)
	Appropriation Curb & Sidewalk Repair-Gas Tax	0700	480	4725	0360	4725C	\$100,000	\$60,293	\$160,293
	Justification	Move budget for contracts to K&D Enterprises from FY01-02 that were paid in FY02-03.							
4)	Appropriation Fleet Services Corporation Yard	7200	480	5812	5900	5812C	\$77,500	(\$77,500)	\$0
	Appropriation Fleet Maintenance Facility	7200	480	H028	6010	028	\$19,529	\$77,500	\$97,029
	Justification	Transfer funds from Operations Budget to CIP.							
Department:		Engineering & Transportation							
1)	Appropriation Roundabouts Various	0700	160	L915	6010	L915	\$2,000	(\$2,000)	\$0
	Appropriation Roundabouts Various	0700	160	L915	6040	L915	\$8,000	(\$8,000)	\$0
	Appropriation Gas Tax Street Maintenance	0700	410	4120	5900	4120C	\$1,170,611	(\$11,000)	\$1,159,611
	Appropriation Bowen Avenue Roundabouts	0700	160	L921	6040	L921	\$129,000	\$21,000	\$150,000
	Justification	On 1/14/03, the CC approved construction of the Bowen Roundabout by City forces, not to exceed \$150k. There were funding involved, but never made.							
2a)	Appropriation Two Traffic Signals Modifications	2300	160	N067	6010	N067	\$23,000	(\$3,000)	\$20,000
	Appropriation Two Traffic Signals Modifications	2300	160	N067	6040	N067	\$235,000	(\$50,000)	\$185,000
	Appropriation Two Traffic Signals Modifications	2300	160	N067	6060	N067	\$20,000	\$-	\$20,000
	Appropriation Fd 2300 Reserve	2300	800	8000	8003	2300R	\$0	\$29,887	\$29,887
	Appropriation Sub-total						\$278,000	(\$23,113)	\$254,887
	Revenue Two Traffic Signals Modifications	2300	160	N067	3137	N067	\$2,000	(\$2,000)	\$-
	Revenue Two Traffic Signals Modifications	2300	160	N067	3531	N067	\$248,113	(\$46,921)	\$199,193
	Revenue Two Traffic Signals Modifications	2300	160	N067	9141	N067	\$-	\$25,808	\$25,808
	Revenue Sub-total						\$250,113	(\$23,113)	\$225,000
2b)	Appropriation CMAQ Projects-Variou Gas Tax	2300	160	N498	6010	N498	\$20,000	\$5,000	\$25,000
	Appropriation CMAQ Projects-Variou Gas Tax	2300	160	N498	6040	N498	\$19,000	\$216,000	\$235,000
	Appropriation CMAQ Projects-Variou Gas Tax	2300	160	N498	6060	N498	\$15,000	\$5,000	\$20,000
	Appropriation Fd 2300 Reserve	2300	800	8000	8003	2300R	(\$27,887)	\$54,000	\$26,113
	Appropriation Sub-total						\$26,113	\$280,000	\$306,113
	Revenue CMAQ Projects-Variou Gas Tax	2300	160	N498	3607	N498	\$-	\$-	\$-
	Revenue CMAQ Projects-Variou Gas Tax	2300	160	N498	3531	N498	\$-	\$247,884	\$247,884
	Revenue CMAQ Projects-Variou Gas Tax	2300	160	N498	9070	N498	\$-	\$32,116	\$32,116
	Revenue Sub-total						\$0	\$280,000	\$280,000
	Justification	These two project budgets were reversed as part of a blue sheet entry							
3)	Appropriation CFF	1410	160	1631	6050		\$-	\$58,000	\$58,000
	Appropriation CFF-Rreserve	1410	800	8000	8003	1410R		(\$58,000)	
	Appropriation Gas Tax	0700	160	1632	6050		\$-	\$50,000	\$50,000
	Appropriation Gas Tax-Reserve	0700	800	8000	8003	0700R		(\$50,000)	
	Justification	These two projects include the local match for FY2004 CMAQ projects							

MONTHLY FY 02-03 ADJUSTMENTS - WORKSHEET

Type of Account	Description	Fund	Agency	Object/Orgn	App Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)	
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4)	Appropriation	0700	430	F265	6040	F265	\$10,808,342	\$92,000	\$10,900,342	
	Revenue	0700	430	F265	3761	F265	\$250,000	\$92,000	\$342,000	
	Justification	This was a change included in a recent blue sheet								
5a)	Appropriation	2300	430	M146	6010	M146	\$111,124	(\$19,000)	\$92,124	
	Appropriation	2300	430	M146	6040	M146	\$2,340,000	(\$900,000)	\$1,440,000	
	Appropriation	2300	430	M146	6060	M146	\$232,529	(\$90,000)	\$142,529	
	Appropriation	2300	430	M146	6050	M146	\$117,000	(\$45,000)	\$72,000	
	Appropriation	2300	800	8000	8003	2300R		\$793,659		
	Appropriation	Sub-total						\$2,800,653	(\$260,341)	\$2,540,312
	Revenue	2300	430	M146	3500	M146	\$1,486,000	(\$1,486,000)	\$0	
	Revenue	2300	430	M146	3532	M146	\$0	\$1,546,312	\$1,546,312	
	Revenue	2300	700	M146	9070	M146	\$0	\$200,341	\$200,341	
	Revenue	Sub-total						\$1,486,000	\$260,653	\$1,746,653
	Transfer-Exp	0700	700	M146	7230	M146	\$0	\$200,341	\$200,341	
	Transfer-Rev	2300	700	M146	9070	M146		\$200,341		
5b)	Appropriation	2300	430	N130	6010	N130	\$95,000	\$19,000	\$114,000	
	Appropriation	2300	430	N130	6040	N130	\$0	\$900,000	\$900,000	
	Appropriation	2300	430	N130	6060	N130	\$0	\$90,000	\$90,000	
	Appropriation	2300	430	N130	6050	N130	\$0	\$45,000	\$45,000	
	Appropriation	2300	800	8000	8003	2300R	\$0	\$11,000	\$11,000	
	Appropriation	Sub-total						\$95,000	\$1,065,000	\$1,160,000
	Revenue	2300	430	N130	3138	N130	\$84,000	(\$84,000)	\$0	
	Revenue	2300	430	N130	3532	N130	\$0	\$1,017,210	\$1,017,210	
	Revenue	2300	430	N130	9070	N130	\$0	\$131,790	\$131,790	
	Revenue	Sub-total						\$84,000	\$1,065,000	\$1,149,000
	Transfer-Exp	0700	700	N130	7230	N130	\$0	\$131,790	\$131,790	
	Transfer-Rev	2300	700	N130	9070	N130	\$0	\$131,790	\$131,790	
	Justification	Revenue & Expenditures for N130 was attributed to M146 Agency for N130 should be changed from 480 to 430 simple typo in budge								
6)	Appropriation	6320	160	M254	6081	M254	\$300,000	\$5,084	\$305,084	
	Appropriation	6310	800	8000	8003	6310R	(\$33,833)	(\$5,084)	(\$38,917)	
	Justification	Authorized by FAA to spend PFC (Passenger Facility Fees) on M254 Project.								
	Appropriation	0700	430	K265	6040	K265	\$149,934	\$1,172,550	\$1,322,484	
	Appropriation	0700	430	K265	6060	K265	\$0	\$500,000	\$500,000	
	Appropriation	0700	800	8000	8003	0700R		(\$53,649)	(\$53,649)	
	Appropriation	Sub-total						\$149,934	\$1,618,901	\$1,768,835
7)	Revenue	0700	430	K265	3137	K265	\$277,500	(\$277,500)	\$0	
	Revenue	0700	430	K265	3705	K265	\$0	\$372,729	\$372,729	
	Revenue	0700	430	K265	3536	K265	\$4,440,000	\$1,523,672	\$5,963,672	
	Revenue	Sub-total						\$4,717,500	\$1,618,901	\$6,336,401

MONTHLY FY 02-03 ADJUSTMENTS - WORKSHEET

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Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
Justification	We recently closed 0700-430-D265 and made a large expense adj moving funds between D265 TO E265 & F265. The result of this activity is that add'l funds were made available in K265 which is phase 2 of the 9th street RR removal project.								
8) Appropriation	N265 Design	0700	430	N265	6010	N265	1,000,000	(1,000,000)	0
Appropriation	0700 Reserve	0700	800	8000	8003	0700R		835,478	
Appropriation	Sub-total						1,000,000	(164,522)	0
Revenue	N265 Revenue	0700	430	N265	3761	N265	10,000	(10,000)	0
Revenue	N265 Revenue	0700	430	N265	3536	N265	154,522	(154,522)	0
Revenue	Sub-total						164,522	(164,522)	0
Justification	To inactivate program and transfer Federal funding to projects where funds can be utilized.								

Department: City Manager

1) Appropriation	Design	2680	430	M208	6010	M208	\$6,000	(\$6,000)	\$0
Appropriation	Land	2680	430	M208	6030	M208	\$53,000	(\$53,000)	\$0
Appropriation	Construction	2680	430	M208	6040	M208	\$48,000	(\$48,000)	\$0
Appropriation	Contingency	2680	430	M208	6050	M208	\$3,000	(\$3,000)	\$0
Appropriation	Construction Administration	2680	430	M208	6060	M208	\$5,000	(\$5,000)	\$0
Appropriation	Design	2600	430	M208	6010	M208	\$0	\$6,000	\$6,000
Appropriation	Land	2600	430	M208	6030	M208	\$0	\$53,000	\$53,000
Appropriation	Construction	2600	430	M208	6040	M208	\$0	\$48,000	\$48,000
Appropriation	Contingency	2600	430	M208	6050	M208	\$0	\$3,000	\$3,000
Appropriation	Construction Administration	2600	430	M208	6060	M208	\$0	\$5,000	\$5,000
Justification	CIP M208 should be in Fund 2600 instead of 2680.								

Department: City Clerk

1) Appropriation	Carryover for City Clerk's Dept.	0100	800	8000	8003	0100R	(\$2,213,641)	(\$100,000)	(\$2,313,641)
Appropriation	for Auditing Services	0100	050	0503	0235	0503C	\$102,070	\$100,000	\$202,070
Justification	FY 02 Carryover to FY 03 to fund CFD Audit.								

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-173**

A RESOLUTION TO CONSIDER THE USAGE OF \$500,000 FROM THE CABLE ONE SETTLEMENT AND APPROVING A GENERAL FUND LOAN IN THE AMOUNT OF \$1.6 MILLION TO UPGRADE THE CITY INSTITUTIONAL NETWORK (INET)

WHEREAS, the current I-Net was built over 25 years ago, as part of an agreement between the City of Modesto and their cable franchise provider, Cable One (Cable One was succeeded by AT&T who has since been acquired by Comcast), and

WHEREAS, over the past several years, the I-Net has been problematic and unreliable, as the result of a limited network capacity and an aging network technology, and

WHEREAS, Comcast has undertaken a major capital project to replace its existing subscriber network with fiber optic technology (the "Project"), and

WHEREAS the project will also provide the City with the unique opportunity to upgrade and extend the internal I-Net at a significantly reduced price, since Comcast will bear the costs of all construction and most materials in the areas of the city where they are actively rebuilding their subscriber network, and

WHEREAS, the overall cost of the I-Net rebuild is estimated at \$4.0 million, of which \$1.6 million is for the City portion of the network, and

WHEREAS, once installed, Comcast would be responsible for routine support of the network at no cost to the City, and

WHEREAS, this pricing structure is available to the City as a part of the subscriber rebuild and requires that we officially notify Comcast of our commitment no later than March 31, 2003, and

WHEREAS, , \$500,000 shall be funded from the cable settlement set aside reserve and \$1.1 million shall be funded by a \$1.1 million loan from the General Fund reserve, and

WHEREAS, the Public Safety Committee reviewed a recommendation of \$1.5 million general fund loan at its meeting on January 6th, 2003, and

WHEREAS, based on revised pricing from Comcast the amount of the rebuild has been revised to \$1.6 million, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a general fund loan in the amount of \$1.1 million and the usage of \$500,000 of the Cable settlement fee to upgrade the City's INET..

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Keating

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-174**

A RESOLUTION APPROVING AGREEMENTS WITH COMCAST OF CALIFORNIA XII, INC. (COMCAST), AND AGREEMENTS WITH VARIOUS PUBLIC ENTITIES RELATING TO THE INSTALLATION OF FIBER AND CONDUIT NETWORK FOR CITY AND OTHER PUBLIC AGENCY USE AND AUTHORIZING THE CITY MANGER, OR HIS DESIGNEE, TO EXECUTE THOSE AGREEMENTS ON BEHALF OF THE CITY.

WHEREAS, the Modesto City Council approved a cable television franchise agreement with Comcast on November 18, 2002, and

WHEREAS, the franchise requires that Comcast, among other things, construct a fiber and conduit network (INET) for City and other public agency use (the project) subject to the terms and conditions of the franchise, and

WHEREAS, the project will provide the City and other public agencies with a unique opportunity to upgrade and extend the INET to facilitate telecommunications within the City at a significantly reduced price, since Comcast will bear the cost of all construction and most materials in the areas of the City where they are actively rebuilding their subscriber network, and

WHEREAS, the overall cost of the INET rebuild is estimated at \$4,200,000 of which \$1.6 million is for the City portion of the INET, and

WHEREAS, the following public agencies are considering participating in the project and, if they do choose to so participate, will reimburse the City for their proportionate share of the cost: Sylvan Union School District, Yosemite Community College District, County of Stanislaus, Modesto City Schools, Empire School District, and Stanislaus Union School District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Comcast to provide for the construction and maintenance of the INET project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves agreements with any of the other public agencies listed above who chose to participate in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute said agreements on behalf of the City, subject to any minor conforming, technical or clarifying changes approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Conrad, Keating

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-175**

A RESOLUTION AMENDING RESOLUTION NO. 91-371 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED PLANNED DEVELOPMENT ZONE, P-PD(483). (RULE DEVELOPMENT)" (RANDY BREKKE).

WHEREAS, on June 4, 1991, the Modesto City Council, by Ordinance No. 2768-C.S., established Planned Development Zone, P-D(483), to allow a single family home subdivision with commercial uses permitted on the southeast corner of the P-D, at the intersection of Dale Road and Pelandale Avenue, and

WHEREAS, on June 4, 1991, the Modesto City Council adopted City Council Resolution No. 91-371, approving the development plan for Planned Development Zone, P-D(483), and the conditions of approval thereof, and

WHEREAS, on December 15, 1997, the City of Modesto Planning Commission adopted Planning Commission Resolution No. 97-101, amending Planned Development Zone, P-D(483), to approve a new development plan for the development of a Rite-Aid at the southern portion of the area zoned for commercial uses, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(483), was filed by Randy Brekke, on December 9, 2002, to add office condominiums as a permitted use in the P-D and to approve a revised site plan that will allow for the development of professional office condominiums in place of the commercial use previously approved for the site, and

WHEREAS, after a duly noticed public hearing held on March 3, 2003, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, the City of Modesto Planning Commission, by Resolution No. 2003-14, recommended that the City Council approve the proposed amendment to P-D(483) as requested, and that the Council

determine that the proposed amendments are required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed office development is consistent with the current land use designation for the site.
2. Conditions of approval will ensure compatibility with surrounding land uses.

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on April 1, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Randy Brekke for an amendment to Planned Development zone, P-D(483), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth above, and

WHEREAS, the Council has introduced Ordinance No. 3294-C.S. on the 1st day of April, 2003, amending Section 2 of Ordinance No. 2768-C.S. to add professional office condominiums as a permitted use in the P-D zone.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Modesto City Council Resolution No. 91-371 entitled "A Resolution Approving a Development Plan for Prezoned Planned Development Zone, P-PD(483). (Rule Development)" is hereby amended to read as follows:

“SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(483), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Pelandale Professional Park” 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 Chief Building Official. Evergreen, screen landscaping shall be installed along the north and west property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
3. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
4. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
5. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.
6. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of onsite or offsite improvements, monuments are damaged or destroyed, the applicant/ developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder’s Office as required by AB1414.
7. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.

8. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
9. 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 storm water quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
10. The developer 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 arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. 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.
11. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.
12. All signs shall comply with the sign requirements of the P-O Zone.
13. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.
14. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.
15. Prior to the issuance of a building permit the developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of the property to the south substantially as shown in red on the plot plan.

SECTION 2. DEVELOPMENT SCHEDULE. The following revised

development schedule is hereby approved for said Planned Development Zone, P-D(483):

The entire construction program for the office condominium portion of P-D (483) shall be accomplished in one phase, construction to begin on or before April 1, 2005, and be completed by not later than April 1, 2006.

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 1st day of April, 2003, by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-176**

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 PLANNED DEVELOPMENT ZONE, P-D (483), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF DALE ROAD AND FLEUR DE LIS DRIVE, TO ALLOW FOR THE DEVELOPMENT OF PROFESSIONAL OFFICE CONDOMINIUMS

WHEREAS, on August 15, 1995, 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, Randy Brekke has proposed an amendment to Planned Development zone, P-D(483), to allow for the development of professional office condominiums, property located on the southwest corner of Dale Road and Fleur de Lis Drive, in the City of Modesto (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 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 2003-11(a) (“Initial Study”) reviewed the proposed Amendment to Planned Development zone, P-D(483), to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan 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 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, said matter was considered by the City Council at a duly noticed public hearing which was held on April 1, 2003, 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(483), 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 1st day of April, 2003, by Councilmember Jackman, 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:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-11

City of Modesto
Initial Study

Amendment to P-D (483)
EA/C&ED 2003-11(a)
March 18, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
Amendment to P-D (483)
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:
West Side of Dale Road, North of Pelandale Avenue
- E. Project Sponsor:
Randy Brekke, 1127 Lone Palm Avenue, Modesto, Ca.
- F. General Plan Designation:
Residential
- G. Current Zoning:
Planned Development, P-D (483)
- H. Description of Proposed Project:
This is an application to amend P-D (483) to allow for the development of professional office condominiums.
- I. Surrounding land uses:
The project is surrounded by a Walgreens Drug Store to the south, residential to the west and north and Dale Road to the east.

- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as commercial. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Furthermore, Engineering and Transportation staff have determined that the project will generate 73 peak-hour-trips, which is less than the 100-peak-hour-trip threshold of significance for further analysis under the Engineering and Transportation Department's Traffic Study Policy (attached) and that no additional traffic analysis is required. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this abandonment are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further mixed-use development and thus, noise generation within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. Beyond this, professional offices do not generally use much water and the necessary water supply infrastructure already exists. Therefore, the Existing Conditions, Impacts Analysis and the

Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are therefore still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as cited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as cited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as mixed-use. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. This project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project, being non-residential, would not generate any additional demand for schools. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity(pages V-17-1 through V-17-12) are therefore still valid.

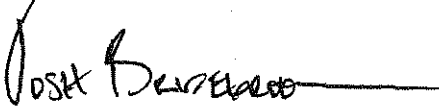
R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:


Josh Bridegroom,
Assistant Planner

From: Helen Wang
To: Steve Mitchell
Date: 1/24/03 2:05PM
Subject: Trip generation for the medical office

Steve,

As requested I check the trip generation of the proposed medical condominiums on Dale Road between Fleur De Lis Drive and the Walgreen's store.

The total square footage of the proposed development is 20,000 sf per the site plan dated 12/3/02.

The traffic generation rate for a medical office at the p.m. peak hour of the adjacent traffic is 3.66 trips/1000 sf. Thus,

$3.66 \text{ trip} \times 20,000/1000 = 73 \text{ trips.}$

This project does not need a traffic study.

Helen Wang

CC: Brad Wall; Firoz Vohra; Josh Bridegroom

MODESTO CITY COUNCIL
RESOLUTION NO. 88-876

A RESOLUTION ADOPTING REVISED CRITERIA FOR TRAFFIC IMPACT STUDIES.

WHEREAS, the Institute of Transportation Engineers (ITE) has published a summary report on proposed recommended practice for Traffic Access and Impact Studies for Site Development in its August 1988 issue of the Institute of Transportation Engineers Journal (extract attached in Appendix A), and

WHEREAS, the Institute of Transportation Engineers' recommended procedure and the Federal Highway Administration (FHWA) Site Impact Traffic Evaluation Methodology both recommend that a complete Traffic Access/Impact Study should be conducted whenever a proposed development and/or addition or extension of an existing development generates 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, and

WHEREAS, the present criteria that the City of Modesto Environmental Assessment Committee uses requires a Traffic Study for proposed developments generating three hundred (300) or more vehicle trips during the p.m. peak hour, and

WHEREAS, the proposed criteria has been discussed with the Construction Industry Liaison Committee and the Modesto Chamber of Commerce Transportation Committee, and

WHEREAS, the Requirement for Traffic Access and Impact Studies shall not be applicable to any neighborhood which is annexed in its entirety subsequent to this resolution. The term neighborhood includes each area

depicted and individually named on the map of the Modesto Urban Area General Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Criteria for a Traffic Impact Study is hereby adopted as attached hereto marked 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 15th day of November, 1988, by Councilmember McGrath, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Irizarry, Lang, McGrath, Patterson, Sutton,
Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: Norrine Coyle
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto
STAN T. YAMAMOTO, City Attorney

See page 8 of 10

CRITERIA FOR A TRAFFIC IMPACT STUDY

A Traffic Study shall be performed when:

1. The proposed development and/or addition or extension of an existing development produces 100 or more peak hour trips, and/or,
2. The proposed development and/or addition or extension of an existing development's traffic is 5% or more of the service volume of an intersection approach in the study area.

The Site Impact Issues and Analysis Methodology for a Traffic Impact Study shall include but not be limited to the following elements, and shall be as approved by the Traffic Engineer/Transportation Planner prior to commencing the Traffic Study.

SITE IMPACT ISSUES

a) SIZE OF STUDY AREA

The size of the study area shall be dependent on the size of the development. All intersections where the site traffic is 5% or more of the service volume on any approach shall be included in the study area.

b) MAGNITUDE OF TRAFFIC GROWTH FACTORS

Growth rate shall be computed by using historical growth rate and exponential projection.

c) TRIP GENERATION RATES

The ITE Trip Generation Manual current edition shall be used to estimate trips generated by the proposed project.

d) RATE OF BUILDOUT

The Traffic Study shall identify the proposed project's buildout rate. The buildout rate for other proposed projects in the study area shall be estimated from the information provided by the City Planning and Community Development Department.

e) PASS-BY TRIPS

Rate of pass-by trips shall be as per the lower limits of the range stipulated by the ITE Trip Generation Manual.

ANALYSIS METHODOLOGY

The analysis methodology shall be as per the following flow chart (Figure 1) in phases described below.

PHASE I

Establish existing traffic conditions without the site. Calculate existing Level of Service (LOS) and capacity* for existing traffic flow conditions.

PHASE II

Forecast future traffic conditions (Study Horizon) without the site. The selection of year for which the study results are to be analyzed will be dependent on the size of proposed development. Table 1 suggests the study horizons that may be appropriate for development of various sizes.

PHASE III

Forecast future Site-Only traffic conditions.

PHASE IV

Determine Total future traffic condition (II+III).

PHASE V

Evaluate alternative improvements/mitigations.

PHASE VI

Prepare cost estimates for implementing mitigations and discuss project participation in funding the mitigations.

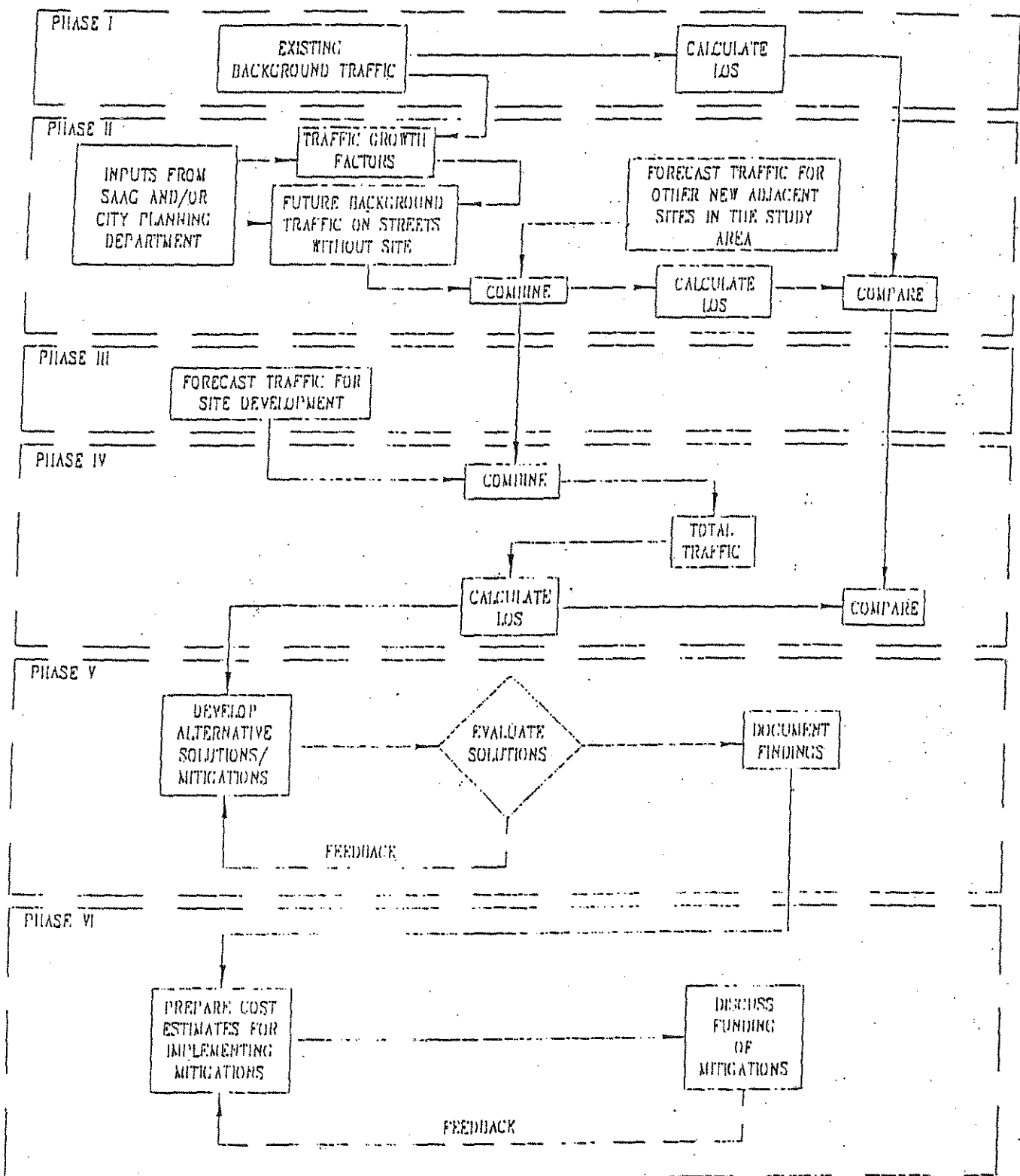
* The Highway Capacity Manual (HCM), as published by the National Research Council, shall be used to analyze intersection capacity and LOS. Intersections that are currently signalized shall be analyzed using the HCM operational method.

Table:1 Appropriate Study Horizons

Development Size	Suggested Horizon(s)
Small (generating less than 500 peak hour trips)	Anticipated opening year, assuming full buildout and occupancy or 5 years, whichever is more.
Moderate, single phase (500-1000 peak hour trips)	<ol style="list-style-type: none"> 1. Anticipated opening year, assuming full buildout and occupancy or 5 years, whichever is more. 2. Adopted transportation plan horizon year if the development is significantly larger than that included in the adopted plan or in forecasts for the area.
Large, single phase (over 1000 peak hour trips)	<ol style="list-style-type: none"> 1. Anticipated opening year, assuming full buildout and occupancy or 5 years, which ever is more. 2. Adopted transportation plan horizon year.
Moderate or large, multiple phase	<ol style="list-style-type: none"> 1. Anticipated opening years, of each, major phase, assuming buildout and full occupancy of each phase. 2. Anticipated year of complete buildout and occupancy or 5 years, whichever is more. 3. Adopted transportation plan horizon year. 4. Additional years when major area transportation improvement is completed.

Note: Trips generated based on rates in ITE Trip Generation Manual

FIGURE 1
FLOWCHART OF TRAFFIC IMPACT STUDY PROCESS



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-177**

**A RESOLUTION APPROVING 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
REMAINING UNDEVELOPED, UNVESTED PROPERTY IN VILLAGE ONE**

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, in 2001 the City of Modesto contracted with Goodwin Consulting Group to study the infrastructure financing for Village One and provide a plan for the timely funding of facilities needed as the development of Village One progresses, and

WHEREAS, on May 28, 2002, the City Council accepted the draft Infrastructure Financing Plan which concluded that there would be a substantial infrastructure funding shortfall in Village One, and recommended measures to correct this shortfall, and

WHEREAS, the City Council, on June 4, 2002, adopted Ordinance No. 3263-c.s., an emergency interim ordinance imposing a moratorium on the approval of new precise plans, tentative subdivision maps, tentative parcel maps, plot plans, use permits, rezonings, final development plans, and any other land use entitlement in Village One for 45 days, and

WHEREAS, the City Council, on July 9, 2002, adopted Ordinance No. 3265-c.s. extending this moratorium for an additional ten months and fifteen days, and

WHEREAS, the City Council directed City staff to prepare the necessary amendments to the Village One Specific Plan, Facilities Master Plan and Financing Plan, to address the identified infrastructure financing shortfall, and

WHEREAS, City staff is proposing an amendment 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 remaining undeveloped, unvested property in Village One, and

WHEREAS, on February 24, 2003, 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 regarding the Village One Specific Plan amendment, and.

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2003-11, recommended to the City Council approval of an amendment 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 remaining undeveloped, unvested property in Village One, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on April 1, 2003, 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, and

WHEREAS, the proposed specific plan amendment is not a project under CEQA, as it concerns policy decisions regarding funding mechanisms, and no changes are proposed to infrastructure or land uses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed 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 remaining undeveloped, unvested property in Village One is consistent with the Modesto Urban Area General Plan and the Village One Specific Plan is hereby amended to read 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

AMENDMENTS TO CHAPTER II

more pump stations may be needed for the distribution of storm water throughout the retention basins located along the MID Canal. The purpose of the retention basins at this location is to promote infiltration of storm water, and recharging of groundwater.

Groundwater recharge is not well served by conduits that convey storm water out of an area. A basin located within a drainage area helps to replenish groundwater by allowing storm water to percolate into the ground. The sensitivity of surface waters to urban storm drainage and its potential to carry contaminants, is currently being addressed by the Environmental Protection Agency and the State Water Quality Control Board.

The Environmental Protection Agency issued regulations on storm water drainage, which took effect in 1990. As a result of the EPA regulations, the City is required to submit a permit application to the Regional Water Quality Control Board. The associated permit program is expected to have numerical water quality objectives which, as yet, are not specifically defined. However, it is likely that treatment of urban runoff would be required for the Village One area, if a retention basin is not used.

Although the general location of storm water drainage facilities have been indicated on Figure II-27, certain deviations will be necessary as logical adaptations to specific site considerations.

a) Design Principles

1. Storm drainage system shall be developed that replenishes the groundwater by means of a retention basin. The use of a retention basin will allow percolation through the soil profile, thus replenishing the groundwater supply.
2. Storm drainage for individual projects shall utilize the permanent storm drain facilities as shown in the Facilities Master Plan. Temporary storm drainage retention basins shall may be allowed at the discretion of the Engineering and Transportation Department Director, until such time as the necessary components of the storm drainage system are in place to serve the particular development.

Construction of the storm drainage basin is dependent on the collection of fees to pay construction costs. Consequently, many homes will need to be built prior to the time tht the storm drainage system will be operational. Temporary basins allow added flexibility for properties to develop.

3. A Storm Drainage Master Plan shall be established for Village One, prior to any development within the area.

The construction of individual drainage sub-systems must relate to a master plan to ensure a functional transition from a temporary to a permanent system. A master plan would establish the necessary grade and elevation criteria to evaluate temporary sub-system designs.

AMENDMENTS TO CHAPTER IV

Chapter IV

Implementation

This Chapter responds to the requirements of Section 65451(a)(4) of the Government Code by providing public works projects, financing measures, and development review programs necessary to implement the requirements of Chapter I-III.

A. Public Works Projects/Public Infrastructure

1. Facilities Master Plan – Overview

Development of the public infrastructure and facilities required to support Village One will occur in a variety of ways and methods. The general requirements for infrastructure and facilities, and the ~~likely method~~ general methods of funding, are described in Sections IV-A and IV-B. Prior to approval of any development plans a detailed Facilities Master Plan shall be prepared and adopted by the City Council, consistent with, but separately from the Specific Plan. Implementation of the Facilities Master Plan can be assured by inclusion of provisions in development approvals and/or development agreements that require adherence to the plan.

The engineering design for the water, sewer, and storm drainage facilities, and the precise alignments of the major streets and roads, is necessary to allow for the preparation of the Precise Plans for each residential area, the Village Center, and the Business Park. This work shall be of sufficient detail to serve as the basis for financial cost estimates.

2. Facilities Master Plan – Service Standards

Village One will conform to all existing City-wide standards expressed in the General Plan except for standards set exclusively for Village One in the Specific Plan. Projects developed in Village One will pay all required fees and taxes established by City-wide ~~fee~~ ordinances for infrastructure and public facilities.

The Specific Plan for Village One sets new standards for road design and park development compared with City-wide development standards for the City of Modesto. The increased cost of implementing these standards will be a cost borne by the property owners of new developments within Village One.

Facilities with enhanced service standards in Village One include:

a) Streets

Right-of-way widths, median requirements, and landscaping requirements in setbacks have been increased or enhanced above present standards.

b) Parks

Park acreage has been increased due to linear recreational trails along Briggsmore Avenue and Claus Road. Linear recreational trails along Briggsmore Avenue and Claus Road provide recreational features in addition to the neighborhood parks and community park that meet the City's General Plan standard for parks and trails.

3. Facilities Master Plan – Infrastructure Categories

The general requirements for infrastructure and facilities, and the likely method general methods of funding, are described in the following paragraphs. The infrastructure and public facilities required to serve Village One can be grouped into three categories:

a) Backbone Infrastructure

This group includes expressways, expressway interchanges, arterial streets, sanitary sewer trunk system, water delivery system, and the storm drainage system.

b) Community Facilities

This group includes parks, schools, and fire facilities.

c) In-Tract Subdivision Infrastructure

This group includes connector streets and residential streets, sewer, water, storm drainage, setback landscaping and street trees.

Backbone infrastructure items and community facilities serve all land uses within the project area and are primarily funded through a financing system that spread the costs fairly to each benefiting land use combination of Community Facilities District taxes, Capital Facilities Fees, Sewer and Water fees and developer exactions. In-tract subdivision infrastructure benefits only a specific development and the costs are allocated only to borne by the benefiting properties within that development.

In recent years, public agencies have been severely restricted in their ability to fund infrastructure to serve new development. New development within Village One is being required to fully fund not only the in-tract improvements that serve the project, but also the costs of the backbone infrastructure.

4. Facilities Master Plan – Infrastructure Phasing

- a) An infrastructure Sequencing Program shall be prepared as part of the Facilities Master Plan and the Village One Infrastructure Financing Plan, that will allow orderly development throughout the Specific Plan area. This sequencing program is contained in the adopted Village One Infrastructure Financing Plan as the prioritization of street and storm drain projects. All funding for the construction of public improvements within Village One, including any reimbursements for infrastructure installed out of sequence, shall be made available only in accordance with the policies and procedures of the adopted Village One Infrastructure Financing Plan.

The sequencing program will prioritize street, sewer, water drainage, and electrical facilities that must be in place prior to specific levels of development being permitted.

The sequencing program will may, at the discretion of the Engineering and Transportation Director, permit temporary solutions to drainage problems, such as temporary retention basins, for certain areas to allow development prior to the completion of the full drainage system serving the area.

- b) The infrastructure Sequencing Program shall provide for flexibility to permit specific areas to develop ahead of the basic sequencing program, if the developer advances the necessary infrastructure costs or constructs the facilities necessary to extend service to the area.

A reimbursement agreement should be included as part of the development agreement explaining the conditions under which the reimbursements are distributed.

B. Public Facilities Financing Measures

1. Public Facilities Village One Infrastructure Financing Plan – Overview

The Village One Specific Plan process is a new approach to the design and implementation of development projects for the City of Modesto. In the past, the City approved residential neighborhood developments, which conformed to citywide development standards and funded the development costs of necessary infrastructure. These developments were not required to fund the full burden of the impacts the projects placed on the City in terms of the City-wide circulation system, public parks, and police and fire facilities. As a result of these prior development patterns, the City is now faced with costly deficiencies in much of its public infrastructure and services.

The comprehensive planning process for Village One, as set forth in the 1989 City Council revised Urban Growth Policy, calls for the preparation of a Financing Plan that identifies all infrastructure costs and requires development to pay its own way. The preparation of a Financing Plan that identifies all infrastructure costs and requires development to pay its own way. The preparation of a

Financing Plan is designed to provide a framework for orderly development, attainment of standards, and mitigation of adverse environmental and financial impacts.

The Financing Plan for Village One is complicated due to the large number of parcels and ownership's within the Specific Plan area. There is great diversity of opinion as to whether or not owners want to develop their property or maintain it in its current use for an indefinite period. The timing of developments is unknown for those property owners who wish to develop in accordance with the permitted land uses within the Village One Specific Plan. This uncertainty means that the financing plan and the infrastructure sequencing program must be flexible.

2. Public Facilities Village One Infrastructure Financing Plan – Facility Funding Methods

The Facility Village One Infrastructure Financing Plan will determine the appropriate mix of Facility funding methods, based upon the facilities listed below:

a) Expressway System

The expressway system will be funded primarily by the City of Modesto's Capital Facilities Fee Program (CFF). Briggsmore Avenue and Claus Road are planned expressways including planned Claus/Sylvan/Briggsmore interchange. All development will be charged a CFF Capital Facilities Fees at the time building permits are issued. The traffic portion of this fee is divided between the expressway system and arterial streets, traffic signals, air quality mitigation, and transit.

b) Arterial Streets

Arterial streets within the Specific Plan area include Oakdale road, Sylvan Avenue, Roselle Avenue and Floyd Avenue. The City's CFF will fund a portion of the Roselle Avenue improvements. Improvements to the other major streets will be paid for by a combination of developer financing for abutting roadway frontages and an "area of benefit" charge that covers the entire Specific Plan area. Assessment districts or Mello Roos Community Facilities districts may be considered in place of, or in combination with, the "area of benefit" charge. Landscape maintenance within public right of way may be funded by a property owners association or a Landscape and Lighting District. Construction and landscape maintenance of the arterial streets will be funded primarily by one or more Community Facilities Districts (CFD's), but other funding sources may be utilized, as specified in the Village One Infrastructure Financing Plan.

c) Local Connector Streets and Residential Streets

Construction of local connector streets and residential streets will also be the responsibility of developers within each Precise Plan. Landscape maintenance on connector streets within public rights-of-way may be funded by a property owners association or a Landscape and Lighting District CFD's, or other funding sources as specified in the Village One Infrastructure Financing Plan.

d) Police and Fire Facilities

Police and Fire facilities will be funded primarily through the City of Modesto's Capital Facilities Fee Program, one or more CFD's, or other funding sources as specified in the Village One Infrastructure Financing Plan. All new developments will be charged a fee at the time building permits are issued. Construction of the police and fire facilities will be required prior to buildout of Village One, so a portion of the cost of these facilities will be funded through bond financing.

e) Schools

Development within the Specific Plan area will be required to mitigate the impact on the elementary, middle, and high schools. The schools will be funded through a combination of AB2026 development fees, local general obligation bonds, the State School Building Program, and one or more Mello-Rees Community Facilities Districts CFD's. A school facilities financing plan will be included as part of the detailed public services and Facilities Financing Plan prepared for Village One and, for the high school, will include a pedestrian over crossing over Sylvan Avenue. A pedestrian overcrossing for the high school at Sylvan Avenue and Millbrook Avenue will be a shared responsibility between the City and Modesto City School District, or other funding source as specified in the Village One Infrastructure Financing Plan.

f) Pedestrian Paths and Trails

All pedestrian paths and trails within public street rights-of-way and public open space areas will be publicly owned and maintained. Pedestrian paths along public streets will be constructed in conjunction with the installation of these streets. Landscape maintenance within the public rights-of-way will be funded through a Lighting and Landscaping District one or more CFD's or property owners associations, or other funding sources as specified in the Village One Infrastructure Financing Plan.

g) Parks

Neighborhood, community, and regional parks will be funded primarily through the City of Modesto's Capital Facilities Fee Program, the "Area of

Benefit process, and/or private development one or more CFD's, or other funding sources as specified in the Village One Infrastructure Financing Plan. All development will be charged the fee at the time building permits are issued.

Park maintenance for neighborhood and community parks, may be funded through the creation of a Landscape and Lighting District one or more CFD's, or other funding sources as specified in the Village One Infrastructure Financing Plan.

h) Water, Sanitary Sewer, and Storm Drainage Systems

Except for certain major water, sanitary sewer, and storm drainage trunk lines, construction of all utilities infrastructure will proceed in conjunction with development of Precise Plans in the Specific Plan area.

The need for most of the utility systems will be triggered by the approval of tentative maps for residential subdivisions within Precise Plan Areas or by the approval of a final development plan for commercial and multi-family properties.

Prior to the recording of final maps, detailed improvement plans and funding mechanisms consistent with the general design described in this Specific Plan shall be prepared and approved by the City. Developers will pay the sanitary sewer, and water, and storm drainage fees at the filing of the final map. Advance funding may be provided by the City through revenue bonds if the fees for a specific project are insufficient to cover the costs of extensions to the project, due to over sizing of facilities or other factors.

Developers may also be required to initially fund costs if nearby areas are not funding their share of the costs of infrastructure extensions due to the timing of development of specific projects. Depending on the funding source and the type of infrastructure being constructed developers who initially fund the costs above their fair share shall be reimbursed when adequate fee revenues are collected other developments tie into the lines or in accordance with the sequencing program as set forth in the Village One Infrastructure Financing Plan. Reimbursement agreements will be approved by the City governing the contributions and repayment requirements.

i) Street Lights

Street lights will be installed along all expressways, major, connector, and residential streets as specified in the Specific Plan. Street lighting may shall be funded as part of the road improvements or may be funded through a Lighting and Landscaping District. Street lights for arterial

streets may be funded through one or more CFD's, or other funding source as specified in the Village One Infrastructure Financing Plan;

3. Public Facilities Village One Infrastructure Financing Plan - Policies

The following policies shall guide the development of the Facilities Village One Infrastructure Financing Plan:

- a) The full costs of the on-site and off-site public infrastructure and public services required to support development in Village One shall be funded from revenues generated by development within Village One. Public services shall also include reimbursement to the City of Modesto for the Planning and Engineering required for the Village One Specific Plan Area as permitted by State Gov. Code Sec. 65456(a).

Property owners within Village One will be required to pay their fair share of the expressways, Citywide circulation system improvements, local streets, neighborhood and community parks, water, sanitary sewer, storm drainage, schools, and public services that are required to serve the area.

The Village One Infrastructure Financing Plan will identify the specific revenue sources to pay for each of the infrastructure improvements and public services and will describe a cost allocation methodology to distribute the costs of the infrastructure and public services required to serve the Specific Plan area.

- b) The backbone infrastructure costs shall be allocated to property within Village One based on general principles of benefit received, with consideration to the financial feasibility of the proposed land use.

The Financing Plan will describe a cost allocation methodology to distribute the cost of the infrastructure required to serve Village One to the benefiting land uses.

Development projects will then be required to pay their fair share of these costs. Conditions for payment will be stated in the Financing Plan for each Precise Plan Area and may be implemented through the development agreement, or other means.

- e) The City shall create an Area of Benefit for Village One using the City's "Procedural Ordinance for Financing Public Facilities," Article 8 of Title 7 of Modesto City Code. As part of the formation of the Area of Benefit, a fair share cost allocation for public improvements required for the development of Village One will be established for each parcel.

All parcel owners who develop land within Village One will be required to pay their fair share of costs based on the cost allocation methodology.

The Area of Benefit is a method to establish the cost allocation of benefit of each parcel without forming an assessment district.

The formation of an Area of Benefit notifies all property owners that they cannot avoid paying their fair share of infrastructure costs by waiting until the infrastructure has been installed by other developers before developing their project. Payment of the Area of Benefit charge by those parcels developing late in the build out of Village One provides the funds to reimburse those properties within Village One that were built early in the process and were required to advance the costs of the infrastructure.

The Area of Benefit charge shall establish a contingent lien on those properties within Village One that wish to remain in their present land use. The Area of Benefit charge shall not be paid until development occurs on the parcel.

The required Area of Benefit charge may be satisfied by payment of a fee at the time of final map or building permit, or participation in a financing district such as a Mello Roos Community Facilities District or an Assessment District.

c) All property owners who develop land within Village One shall be required to pay their fair share of costs for installing and maintaining the necessary backbone infrastructure and community facilities based on the cost allocation and methodology contained in the Village One Infrastructure Financing Plan and the Village One Community Facilities District, and through payment of CFF, water, sewer and other City development fees. Payment of these fees and taxes provides the funds to construct and maintain the backbone infrastructure and community facilities necessary to serve the Specific Plan area, and to reimburse those property owners who build out of sequence and are required to advance the costs of the infrastructure or community facilities.

d) The City shall use pay as you go financing to the extent possible. Debt financing shall be used only when essential to provide facilities necessary to permit development or to maintain service standards.

Pay as you go financing reduces the net costs of development by minimizing financing costs.

Debt financing should be used only when essential to guarantee that facilities are constructed to meet the requirements of the infrastructure sequencing plan. Debt financing may also be used when it proves more cost effective than pay as you go financing due to interest rate advantages of tax exempt financing and tax deductibility of the repayments.

The pay-as-you-go financing will include development impact fees, develop/landowner dedications and exactions, and private sector financing. Certain facilities may be required in advance of development of specific areas to ensure an orderly development program or to mitigate potential traffic problems. A Mello-Roos Community Facilities District or an assessment district may be formed to issue bonds to pay for the facilities called for in this Specific Plan.

d) In 1996, the City created the Village One Community Facilities District No. 1996-1 (Village One CFD) in order to fund certain backbone infrastructure and community facilities for the Village One Specific Plan area. It is acknowledged, however, that there is a severe shortfall in the funding that was to be provided through the existing Village One CFD. It is the intent of the City Council to create a new special tax district (Tax Area B) within the Village One CFD which will encompass all undeveloped and unvested property within the Village One Specific Plan area, as more particularly shown in the public report to be prepared for Tax Area B. The purpose of Tax Area B will be to ensure the City is collecting all funds necessary to construct and maintain the backbone infrastructure and community facilities, in order to remedy the shortfall. The public report for Tax Area B and the Village One Infrastructure Financing Plan shall establish the cost allocation and methodology for establishing the tax structure for all currently undeveloped and unvested properties within the Specific Plan area. It is the further intent of the City Council that no new development may occur without forming or annexing to the Village One CFD at the tax rates established for Tax Area B, as shown in the public report to be developed for Tax Area B, and actually paying all applicable CFD taxes at the rate established by Tax Area B.

Based on the above history and statements of intent, no precise plan, final map, final development plan, building permit or other development entitlement for currently unvested property shall be deemed consistent with this Specific Plan until and unless the affected parcel is required to form or annex to the Village One CFD at the tax rates established for Tax Area B and pay all applicable CFD taxes at the rate established by the New District.

Therefore, as a condition of approval for development of any parcel within the Specific Plan area, the property owner and/or developer shall be required to take all actions necessary to impose all CFD taxes on the land as are required of parcels within the Tax Area B, including but not limited to annexation to the existing Village One CFD at the tax rates established for the new Tax Area B, securing and establishing the new special tax district as shown in the Village One Infrastructure Financing Plan and the public report for the new Tax Area B, or, if Tax Area B has already been established, annexing the property to the Village One CFD at the tax rates established for Tax Area B, and actually paying all CFD

taxes assessed based on the tax rates established for Tax Area B. The property owner shall be required to secure and establish Tax Area B or annex to the Village One CFD at the tax rates established for Tax Area B prior to recordation of a final map or issuance of a building permit, whichever occurs first, for any property located within Tax Area B. Payment of the CFD tax at the rates established for Tax Area B shall be required prior to issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water fees and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures. Undeveloped properties may be required to annex to the new special tax district in accordance with the provisions of the Village One Infrastructure Financing Plan.

- e) — Development projects in the Specific Plan shall be required to fund any oversizing of facilities required by the City, subject to reimbursement from future developments benefiting from the oversizing.

Village One may be required to fund improvements outside the project area that will be subject to later reimbursement if other projects are approved for development. For example, Village One will be required to fund the widening of Sylvan Avenue. Half of this cost would be allocated to properties along the northern border of Sylvan Avenue.

The City may establish a reimbursement plan to Village One from other development areas, as part of the Financing Plan. These reimbursements would only be available if the other areas are permitted to develop at some future date.

- e) It is essential to provide the necessary backbone infrastructure and community facilities at the earliest possible opportunity in order to ensure orderly development, mitigate potential traffic issues, and maintain appropriate service standards for the Specific Plan area. Debt financing shall be used in the New District, and is the preferred method for funding the construction of remaining backbone infrastructure and community facilities necessary to serve the Specific Plan area. Debt financing is essential to guarantee that facilities will be constructed to meet the requirements of the infrastructure sequencing and prioritization plan.

Pay-as-you-go financing shall only be used to the extent it is applicable to payment of CFF, water and sewer fees and other development fees, and for the provision of in-tract subdivision infrastructure or on-site property improvements which only benefit a specific development.

- f) Developers of Precise Plan Areas properties that proceed ahead of the planned infrastructure sequencing plan contained in the Village One

Infrastructure Financing Plan will be required to pay the costs of extending the backbone infrastructure to their project, subject to future reimbursement, in accordance with the sequencing and prioritization contained in the Village One Infrastructure Financing Plan.

Because the Specific Plan permits property owners to keep their properties in the present land use if they wish, development in Village One may not occur in a sequential pattern. Some developments may need to construct roads, sanitary sewer, water, and storm drainage facilities through areas that remain undeveloped.

The development plan for Village One allows for this type of development but requires the developers to advance the funding needed to extend the infrastructure to their projects. Reimbursements will be available when the properties that were bypassed eventually develop based on the sequencing and prioritization contained in the Village One Infrastructure Financing Plan.

- g) The City shall require dedication of land for road improvements and construction of road improvements consistent with citywide policies, the Facilities Master Plan and the Village One Infrastructure Financing Plan.

Existing City policies govern the dedication of land for road improvements and require developers of a given road frontage to construct the first forty feet of the road, curb and gutter, measured from the property line.

- h) The City shall pay for the acquisition of dedicated property required for arterial streets and connectors that exceed 40 feet of the road, curb and gutter measured from the property line or 25 percent of the gross acreage of any existing parcel whichever is less. Arterial roads are defined as Oakdale Road, Sylvan Avenue, Roselle Avenue, Floyd Avenue, Briggsmore Avenue, and Claus Road. The City shall acquire parcels that are left without an any economic or beneficial use as a result of the land dedication requirements.

Land dedications for public improvement development projects are typically twenty percent to twenty-five percent of gross acreage. In Village One, some of the smaller parcels may require dedications in excess of typical requirements due to the layout of the backbone infrastructure. This policy protects those parcels from a disproportionate share of the burden for land dedications.

The acquisition of property covered by this policy will be funded through the Area of Benefit charge, and the cost spread to all developable parcels in Village One one or more CFD's or other funding sources as specified in the Public Facilities Finance Plan. The City may establish a list of small parcels unlikely to develop further that are adjacent to critical street segments for the purposes of property acquisition in conjunction with development of these street segments as part of the Village One Infrastructure Financing Plan.

i) ~~The City shall defer payment from owners of small parcels (less than ten acres) for the cost of infrastructure required to develop the Specific Plan Area, until the owners develop the parcels according to the land uses assigned by the Land Use Element.~~

ii) ~~Notwithstanding the provisions of Section d), the City may defer the requirement to form or annex to the Village One CFD for:~~

1) ~~Residential properties of less than ten acres, until there is a land division, addition of any dwelling unit or change of use, or~~

2) ~~The existing commercial properties in Precise Plan Area No. 2, as defined in Section IV.C.2.d) of the Specific Plan, until there is a change of use, physical expansion of the existing buildings, construction of new buildings, or division of property.~~

~~Parcel owners will be subject to charges for CFF, water and sewer fees, and other applicable development fees, and for specific infrastructure items that provide direct benefit to their property, such as a sanitary sewer line.~~

~~These parcels owners will be required to pay their fair share of the infrastructure costs at the time a development project for the parcel is approved, as established by the Area of Benefit charge CFD's for the Specific Plan area or the CFF, water and sewer fees, or other funding sources as specified in the Village One Infrastructure Financing Plan.~~

4. Long Term Facilities Management

a) City of Modesto

The City of Modesto will provide the majority of public services to the Specific Plan Area, including: Police, fire, parks, water, sewer, streets and roads, median landscaping, street lighting, storm drainage, and general government services.

b) Landscape and Lighting District and/or Other Assessment Districts
Community Facilities Districts:

~~A landscape and lighting district and/or other similar district(s)~~
Community Facilities Districts will be formed to manage and fund pedestrian and bicycle trails installation and maintenance, median landscaping installation and maintenance, landscape corridor installation and maintenance, and any other facilities deemed appropriate.

~~Regardless of the actual maintenance districts established to perform this maintenance, these services the City shall ensure that public facility~~

maintenance service provided to Village One residents does not diminish service capabilities to other parts of the City. ~~To achieve this objective, The landscaping and lighting district(s) and/or other assessment districts Community Facilities Districts shall include adequate provisions, to the satisfaction of the City Attorney and Public Works Engineering and Transportation Director, for general liability insurance, administration and adherence to safe design standards.~~

c) Property Home Owners Associations

~~Property Private Home Owners Associations may be created in some neighborhoods to manage and fund landscape corridor installation and maintenance, and alley maintenance when there are advantages over inclusion in the Landscape and Lighting District as a CFD obligation.~~

d) Sylvan Union School District

This district will provide elementary and middle schools to serve the Specific Plan area.

e) Modesto City Schools

This district will provide high schools to serve the Specific Plan areas.

f) Modesto Irrigation District

This district will provide electrical service to the Specific Plan Area. The district will also maintain water lines to irrigate lands that remain in agricultural use.

g) Pacific Gas and Electric

PG&E will provide natural gas service to the Specific Plan area.

h) Cable TV

~~Post-Newsweek AT&T Broadband (the current franchise holder) will provide Cable TV service to the Specific Plan area.~~

i) Garbage Collection

Modesto Disposal (the current franchise holder) will provide service to the Specific Plan area.

"Exhibit A"
Amended on 6/29/03
by Reso # 2003-33

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-178**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
(MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO
CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) FOR A
TERM OF APRIL 8, 2003 THROUGH JUNE 27, 2005.**

WHEREAS, effective September 9, 2002, the City of Modesto (CITY) recognized the Modesto Confidential and Management Association (MCMA) as the official representative of a newly formed bargaining unit, 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 April 1, 2003, a copy of which report is on file in the office of the City Clerk, the CITY and MCMA have reached agreement on their first Memorandum of Understanding (MOU) which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASES. Across-the-board salary increases of 3.5% will be effective July 1, 2003 and 3.75% effective June 29, 2004.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage for employees with Family coverage shall be increased in the amount of \$85 per month effective August, 2003 and an additional \$75 per month increase effective August, 2004, in addition to previously authorized increases. These increases will bring the City's Family contribution to \$571.76 effective August, 2003 and to \$676.76 effective August, 2004.

SECTION 3. CERTIFICATION INCENTIVES. Employees in designated classifications and divisions who voluntarily obtain certain certifications beyond those required of their positions, will be eligible for certification pay ranging from 2.5% to 7.5% of salary, effective July 1, 2003. These certifications are in the areas of Water Distribution, Water Treatment, Wastewater Collection, Water Quality, Pest Control and Playground Safety.

SECTION 4. REGISTRATION FEES. The City shall pay registration and renewal fees for designated certifications and licenses, effective April 8, 2003.

SECTION 5. SHIFT PAY. The City shall pay shift pay in the amounts of \$5.00 and \$7.00 for Custodian Supervisor or Police Support Services Supervisor required to work swing or graveyard shifts, effective April 8, 2003.

SECTION 6. MASTERS DEGREE. The City shall pay an additional 1.5% of salary, effective June 29, 2004, for employees with Masters Degrees, subject to criteria as established by the City, and

WHEREAS, the Council considered this matter at its meeting of April 1, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council 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 April 8, 2003 through June 27, 2005, 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 1st day of April, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant,

NOES: Councilmembers: Conrad, Mayor Sabatino

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-179**

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND GRACEADA MANSION PARTNERSHIP FOR THE LEASE OF A PORTION OF WELL SITE NO. 2 LOCATED AT 110 POPLAR AVENUE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT.

WHEREAS, when the Graceada Mansion Partnership built the office complex at 110 Poplar Avenue, additional parking was needed, and

WHEREAS, the City agreed to lease the Graceada Mansion Partnership a portion of Well Site No. 2, located across the alley from the office complex, for parking, and

WHEREAS, the original lease was for a ten-year period and expired in March, 1998, and

WHEREAS, a five-year extension of that original lease agreement expired March 3, 2003, and

WHEREAS, staff is supportive of continuing this lease agreement for an additional five-year period commencing on March 3, 2003, at the rental rate of \$130.00 per month,

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Lease Agreement between the City of Modesto and Graceada Mansion Partnership for a portion of Well Site No. 2 located at 110 Poplar Avenue for a five-year period commencing on March 3, 2003.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-180

A RESOLUTION ACCEPTING THE PROJECT TITLED "EXPAND ATMS
NORTHEAST" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Expand ATMS Northeast", has been completed by Golden State Utility Company, in accordance with the contract agreement dated November 20, 2001,

NOW, THEREFORE, BE IT RESOLVED that the "Expand ATMS Northeast" project be accepted from said contractor, Golden State Utility Company, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$543,081.67 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-181**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "2000-2001
PAVEMENT MAINTENANCE" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "2000-2001 Pavement Maintenance", has been completed by George Reed, Inc., in accordance with the contract agreement dated August 14, 2001,

NOW, THEREFORE, BE IT RESOLVED that the "2000-2001 Pavement Maintenance" project be accepted from said contractor, George Reed, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,227,700.77 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-182**

A RESOLUTION APPROVING A HOUSING MAINTENANCE PROGRAM (HMP) LOAN FOR PATRICIA LANGLEY AND EGIDIO M. OLIVEIRA, SECURED BY THE HOME AT 422 OAK STREET, IN THE AMOUNT OF \$89,170, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto has a Housing Maintenance Program (HMP) funded through Federal Community Development Block Grant (CDBG) and proceeds from previous loans, and

WHEREAS, the City Council must approve all loans under this program for over \$25,000, and

WHEREAS, staff recommends approving a loan to Patricia Langley and Egidio M. Oliveira, for a 5%, 15-year amortized loan with a minimum monthly payment of \$705.15, and

WHEREAS, this property is located in Target Area #4 and requires mandatory repairs, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on March 20, 2003, and supported and recommended the loan amount and terms,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request for a Housing Maintenance Program (HMP) loan to Patricia Langley and Egidio M. Oliveira, secured by the home at 422 Oak Street, in the amount of \$89,170.00.

BE IT FURTHER RESOLVED that the recommendation for terms of the loan of 5% interest, a 15-year amortization and monthly payments of \$705.15 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 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-183**

**A RESOLUTION APPROVING ALLOCATION OF \$20,000 IN FUNDING
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT
NEIGHBORHOOD CAPITAL IMPROVEMENT PROJECT PROGRAM**

WHEREAS, the City of Modesto receives a Community Development Block Grant (CDBG), and

WHEREAS, for Fiscal Year 2002-2003, \$50,000 has been allocated for the purposes of providing funding to neighborhood-based groups or individuals to do beautification or capital projects in their neighborhoods that will result in an improvement in the quality of life for the residents of that neighborhood, and

WHEREAS, \$20,000 has been allocated for two projects, leaving \$30,000 to be allocated, and

WHEREAS, a Request for Proposal (RFP) for up to \$10,000 per project was released, and

WHEREAS, three neighborhood-based groups or individuals submitted RFPs, and

WHEREAS, a review committee met on March 7, 2003, to review the proposals and submitted recommendations to the Citizen's Housing & Community Development Committee (CH&CDC), and

WHEREAS, the CH&CDC met on March 21, 2003, and supported and recommended the approval of the proposals for the Habitat for Humanity "United Communities" and Volunteer Center/PACE "Hands on the Future,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves funding in the amount of \$10,000 each for the Habitat for Humanity "United Communities" and Volunteer Center/PACE "Hands on the Future" proposals.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-184**

A RESOLUTION APPROVING ALLOCATION OF \$190,745 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND \$43,850 IN EMERGENCY SHELTER GRANT (ESG) FUNDING FOR FISCAL YEAR 2003-2004 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND EXECUTE THE AGREEMENTS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (H.U.D.), 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 of the City's available CDBG entitlement grant may be allocated for the purposes 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, in Fiscal Year 2003-2004, fifteen percent of the City's available CDBG entitlement is \$433,500, and

WHEREAS, in 2000, the City Council recommended that the Modesto Police Department be allocated funds for the Crime Free Multi-Housing Project funded through CDBG Public Service funds for three years at \$150,000 per year, and

WHEREAS, staff has reduced the amount of CDBG funding available to non-profits by \$150,000 to \$283,500 in order to fund the third year of the Crime Free Multi-Housing Program, with \$260,633 in available funds recommended by the Citizens Housing and Community Development Committee (CH&CDC) for allocation to

qualified non-profit agencies, with the balance to be allocated through a second RFP process, and

WHEREAS, the City allocates one hundred percent of its annual ESG to local non-profit organizations for the purposes of providing assistance that is consistent with the functions of ESG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, in Fiscal Year 2003-2004, the City's ESG grant is \$88,261, of which \$70,250 is recommended for allocation by the CH&CDC, with the balance of \$18,011 to be allocated through a second RFP process, and

WHEREAS, local non-profit organizations were invited to submit Requests for Proposals (RFPs) for the balance of available CDBG Public Service funds in the amount of \$283,500 and for \$88,261 in ESG funds, and

WHEREAS, at a public meeting on March 21, 2003, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits "A" and "B" attached hereto and incorporated herein by reference, and

WHEREAS, since that time, staff has had cause to recommend that the \$69,888 in CDBG and \$26,400 in ESG funding recommended for allocation to Community Housing and Shelter Services be withheld pending further review of this organization,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of \$190,745 in Fiscal Year 2003-2004 Community Development Block Grant funding and \$43,850 in Emergency Shelter Grant funding as set forth in Exhibits "A" and "B" attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of \$150,000 to the Modesto Police Department for the Crime Free Multi-Housing Program.

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 any documents with respect to implementation of the allocation of Fiscal Year 2003-2004 CDBG/ESG Public Service Grant funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**ESG Applications
FY 2003-2004**

Agency	Program Name	Funding	Recommended Funding	
		Request ESG	Amounts ESG	Available Funding ESG
Center for Human Services	Pathways Transitional Living Program	12,810	12,200	
Center for Human Services	Hutton House	20,580	18,000	
Children's Crisis Center	Cricket's House	13,650	13,650	
Salvation Army	Homeless Meals Program	7,500	0	
Interfaith Ministries	Redwood Family Center	45,525	0	
Comm. Hsng. & Shelter	Emergency Shelter	26,400	0 (See Note)	
Total Requests/Recommendations		126,465	43,850	88,261

The Citizens Housing and Community Development Committee recommended a total allocation of \$70,250 in ESG funding. Total ESG funding available is \$88,261, leaving \$18,011 still remaining to allocate. However, staff is recommending that Funding to Community Housing and Shelter Services be withheld pending investigation of issues that were brought to light after the CH&CDC meeting.

CDBG Applications

FY 2003-2004

Agency	Program Name	Funding Request CDBG	Recommended Amounts CDBG	Available CDBG
Stanislaus Literacy Center	Literacy, English, Pre-GED for Adults	33,500	33,500	
Center for Human Services	Hutton House	22,834	0	
Center for Human Services	Pathways Transitional Living Program	32,645	0	
Project Sentinel	Fair Housing	55,125	20,125	(35,000 out of admin.)
Second Harvest Food Bank	Food Assistance Program	40,000	0	
United Way	211 Planning	10,000	0	
Children's Crisis Center	Cricket's House	18,200	18,200	
Salvation Army	Senior Meals	20,000	20,000	
Salvation Army	Subsidized Childcare	20,000	20,000	
Stanislaus Community Assistance Project	Prevention for Positive Education & Counseling	55,637	0	
DRAIL	Assistive Technology Services	16,500	0	
Interfaith Ministries	Redwood Family Center	15,000	15,000	
Healthy Aging Association	Young at Heart	20,942	0	
Comm. Hsng. & Shelter	Children's Activity Coordinator	37,440	0	(See Note)
Comm. Hsng. & Shelter	Services for JUST KIDS	32,448	0	(See Note)
Comm. Hsng. & Shelter	Housing Counseling, Enhanced	23,724	0	
YMCA	Airport District Outreach Services	40,427	40,427	
Parent Resource Center	Parenting Basics Project	23,493	23,493	
Victory Life Center	Warehouse & Lift Training/Cert Program	47,403	0	
Total Requests/Recommendations by CH&CDC		564,868	190,745	\$283,500

The Citizens Housing and Community Development Committee is recommending a total allocation of \$260,633 in CDBG funding. Total CDBG funding available is \$283,500, leaving \$22,867 still remaining to allocate. However, staff is recommending that funding to Community Housing and Shelter Services be withheld pending investigation of issues that were brought to light after the CH&CC

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-185**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BIDS FOR WATER VALVES AND FIRE HYDRANTS**

WHEREAS, the Finance Department - Central Stores Division and the Operations and Maintenance Department - Water Division has requested the purchase of water valves and fire hydrants, and

WHEREAS, the term of any resulting contract(s) shall be from August 1, 2003, through July 31, 2004, with the City reserving the right to extend the contract for two one-year contract extensions, up to and including July 31, 2006, contingent upon the availability of continuous funding for said purpose, and

WHEREAS, the City's fire hydrants are being replaced at a rate of 30 per week, and

WHEREAS, water valves are used to replace existing valves which may be non-operable, to extend existing water lines, and for new service to new businesses, and

WHEREAS, by soliciting formal bids, the Finance Department - Purchasing Division will comply with Section 8-3.204 of Modesto Municipal Code, formal bid procedures, thereby obtaining the best value for the City,

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 competitive sealed bids for the furnishing of water valves and fire hydrants to be opened in the office of the City Clerk, 1010 10th 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 bids are opened, they shall be tabulated and analyzed and a report submitted to the Council at its regular meeting.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-186**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BID (RFB) FOR ONE (1) FORD SUPER DUTY F550
TRUCK, WITH UTILITY BODY AND AERIAL MAN LIFT, FOR AN
ANTICIPATED COST OF \$85,537.00**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a Ford Super Duty F550 truck, with utility body and aerial man lift, and

WHEREAS, this new truck will be used in the repair of streetlights and traffic signals, and

WHEREAS, the Fleet Services Division has identified this vehicle as a critical need in the performance of its work, and

WHEREAS, the estimated total cost of this purchase is \$85,537.00, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for a Ford Super Duty F550 truck is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for a Ford Super Duty F550 truck 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 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 187**

**A RESOLUTION APPROPRIATING FUNDS RECEIVED FROM THE
CONVENTION & VISITORS BUREAU TO THE PARKS, RECREATION &
NEIGHBORHOODS DEPARTMENT**

WHEREAS, the Modesto Convention & Visitors Bureau (CVB) has delivered a check to the City of Modesto in the amount of \$42,659.54, and

WHEREAS, the Parks, Recreation & Neighborhoods Department has incurred expenses related to the CVB organization, and

WHEREAS, City staff suggests that funds from the CVB in the amount of \$42,659.54 be appropriated into the Parks, Recreation and Neighborhoods Department, and

WHEREAS, as its meeting of March 24, 2003, the Finance Committee referred this item to the City Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that funds in the amount of \$42,659.54 be appropriated into the Parks, Recreation & Neighborhood Department accounts to offset expenses incurred for the Convention & Visitors Bureau.

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 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-188**

**A RESOLUTION APPROVING AGREEMENTS BETWEEN THE CITY OF
MODESTO AND DAVID G. AND AUDREY A. GRAHAM FOR THE
ACQUISITION OF PROPERTY, BEING A PORTION OF ASSESSORS PARCEL
NO. 085-0246, FOR THE SHARON AVENUE WIDENING PROJECT**

WHEREAS, on March 12, 2002, the City Council of the City of Modesto directed staff to enter into negotiations with the Grahams to purchase the necessary right-of-way for the widening of Sharon Avenue to improve ingress and egress to the adjacent school site, and

WHEREAS, right of way needs to be acquired for this widening project, and

WHEREAS, as a part of the construction process, a ten-foot (10') temporary construction easement is required from the Grahams, and

WHEREAS, agreements are needed for the acquisition of the needed right of way and temporary construction easement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Agreements between City of Modesto and David G. and Audrey A. Graham for the acquisition of property and use of a temporary construction easement, being a portion of Assessors Parcel No. 085-0246, for the Sharon Avenue widening project are hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreements by the City Manager on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-189**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY DAVID G. AND AUDREY A. GRAHAM, BEING A
PORTION OF ASSESSORS PARCEL NO. 085-0246, FOR THE SHARON
AVENUE WIDENING 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 right of way from David G. and Audrey A. Graham, being a portion of Assessors Parcel No. 085-0246 for the Sharon Avenue Widening Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for a Grant Deed for the acquisition of property owned by David G. and Audrey A. Graham, being a portion of Assessors Parcel No. 085-0246 for the Sharon Avenue Widening Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-190**

**A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF
MODESTO, SYLVAN UNION SCHOOL DISTRICT AND GREG AVERY, INC.
FOR ACQUISITION OF PROPERTY, CONSTRUCTION OF STREET
IMPROVEMENTS AND SEWER EXTENSIONS FOR THE SHARON AVENUE
WIDENING PROJECT**

WHEREAS, Sylvan Union School District (“District”) owns real property located at the southwest intersection of Sharon Avenue and Fine Avenue (“Property”), and

WHEREAS, District proposes to construct a new elementary school on said Property, and

WHEREAS, Greg Avery, Inc. (“Developer”) is in the process of developing a residential subdivision at the northeast corner of Fine Avenue and Sharon Avenue, commonly known as Banyon Estates (“Subdivision”), and

WHEREAS, as a condition of developing said Subdivision and in order to provide sewer service to said Subdivision, Developer is required to extend the 10” sewer line along Sharon Avenue, approximately three-hundred feet (300’) to the intersection of Sharon Avenue and Fine Avenue, and

WHEREAS, in conjunction with the construction of the school, District and the City of Modesto desire that a full width street be constructed along the north boundary of said Property, and

WHEREAS, a portion of the street improvements are located on said Property and also on a portion of a private property owned by David and Audrey Graham (“Grahams”), and

WHEREAS, City has negotiated a property acquisition agreement with the Grahams to acquire 0.23 acres (10,228 square feet) of Grahams property for a public

utility easement and street right of way and City and Developer have agreed to share in the property acquisition cost, and

WHEREAS, Developer has agreed to construct the sewer extension along Sharon Avenue at Developer's sole expense and District has agreed to construct the street improvements along Sharon Avenue at District's sole expense.

WHEREAS, an Agreement is needed to approve the acquisition of the needed right of way, the sewer extension and the street improvements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto, Sylvan Union School District and Greg Avery, Inc. for the acquisition of property, construction of street improvements and a sewer extension for the Sharon Avenue widening project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahir
JEAN ZAHIR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 – 191**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
FINDING THAT THE PROJECT LOCATED AT SHARON AVENUE AND FINE
AVENUE IN MODESTO, CALIFORNIA IS CONSISTENT WITH THE FINAL
PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE VILLAGE ONE
SPECIFIC PLAN (SCH #90020181)**

WHEREAS, on September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181), as modified by the Supplemental EIR. 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, and

WHEREAS, the City's Community and Economic Development Department reviewed the project to determine if said project might have a significant effect on the environment other than those effects identified in the EIR, and

WHEREAS, by the Initial Study, attached hereto as "**Exhibit A**" and made a part hereof by this reference, findings have been made that the proposed project is within the scope of the Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181), as modified by the Supplemental EIR.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the City has completed the Initial Study for the widening of Sharon Avenue at Fine Avenue and the City Council hereby makes the following findings:

1. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.
2. There are no substantial changes proposed in the project that will require major revisions of the Final Program Environmental Impact Report for the Village One Specific Plan, as modified by the Supplemental EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Final Program Environmental Impact Report for the Village One Specific Plan, as modified by the Supplemental EIR.

4. No new information, which was not known and could not have been known at the time the Final Program Environmental Impact Report for the Village One Specific Plan, as modified by the Supplemental EIR, was certified as complete, has become available.
5. This initial study provides substantial evidence to support findings 1, 2, and 3 above.
6. There are no new or different mitigation measures or alternatives which would substantially reduce one or more significant effects on the environment. All relevant mitigation measures have been applied to this project.
7. Said Project is in substantial conformance with the Final Program Environmental Impact Report for the Village One Specific Plan, as modified by the Supplemental EIR.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael Milich
MICHAEL D. MILICH, City Attorney

**City of Modesto
Initial Study**

ACQUISITION OF THIRTY FIVE (35) FEET OF STREET RIGHT-OF-WAY AND TEN (10) FEET OF TEMPORARY CONSTRUCTION EASEMENT ON SHARON AVENUE, FROM FINE AVENUE TO THREE HUNDRED (300) FEET WEST OF FINE AVENUE, IN THE VILLAGE ONE SPECIFIC PLAN AREA

EA/E&T 2003-03
March 6, 2003

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Section 15168 (c) (2) of the California Environmental Quality Act (CEQA) Guidelines states that for a Program EIR if the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.

Section 15162 of the CEQA Guidelines states that when an EIR has been certified for a project no subsequent EIR shall be prepared for that project, if the following findings can be made:

- A. No substantial changes are proposed in the project, which will require major revisions of the environmental impact report.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

II. PROJECT DESCRIPTION

- A. Project title:
Acquisition of Thirty Five (35) Feet of Street Right-of-Way and Ten (10) Feet of Temporary Construction Easement on Sharon Avenue, from Fine Avenue to Three Hundred (300) feet West of Fine Avenue, in the Village One Specific Plan area.
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Robert Granberg, City of Modesto, Engineering and Transportation Department, (209) 577-5259.
- D. Project Location:
The Village One Specific Plan area between Sylvan and Briggsmore Avenues and Claus Road and Roselle Avenue.
- E. Project Sponsor:
City of Modesto, 1010 Tenth Street, Modesto, CA 95354
- F. General Plan Designation:
Village Residential (VR)
- G. Current Zoning:
Specific Plan-Holding (SP-O) Zone
- H. Description of Proposed Project:
Acquisition of thirty five (35) feet of street right-of-way and ten (10) feet of construction easement on Sharon Avenue, between Fine Avenue and three hundred (300) feet west of Fine Avenue to facilitate the widening of Sharon Avenue to its full Village Connector street width in the Village One Specific Plan Area. The right-of-way will be acquired from the property depicted on APN 085-33-68, as shown on the attached exhibit.
- I. Surrounding Land Uses:
Existing ranchette properties and developing single-family subdivisions surround the subject parcels in the project area.
- J. Other Public Agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15162 FINDINGS

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.

Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, as modified by the Supplemental EIR:

1. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, impacts to traffic and circulation for this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

2. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the project is consistent with the Village One Specific Plan EIR. Project air quality impacts are thus consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

3. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the noise impacts of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

4. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

5. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the land use impacts of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

6. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the impacts to population, employment and housing of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

7. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity or design. Therefore, the impacts to urban design and visual quality of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

8. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The proposed public right-of-way acquisition consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the impacts to geology and soils of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

9. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the impacts to hydrology of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

10. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore the proposed project would not create any additional demand for public services that are in excess of those analyzed by the Village One EIR. Therefore, the impacts to public services of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

11. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the fiscal impacts of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

12. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the cumulative impacts of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

13. Growth Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The proposed public right-of-way acquisition is consistent with and proposes no major revisions to the Village One Specific Plan in alignment, land use and intensity. Therefore, the growth-inducing impacts of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

IV DISCUSSION OF SECTION 15162 FINDINGS

A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. The proposed Sharon Avenue right-of-way acquisition remains consistent with Figure II-27 of the Village One Specific Plan. Therefore, there have been no substantial changes with respect to the development or infrastructure proposed for the Village One project under which this project is being undertaken which will require major revisions in the Village One Program EIR.

B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. The proposed Sharon Avenue right-of-way acquisition remains consistent with Figure II-27 of the Village One Specific Plan. Therefore, there have been no

substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

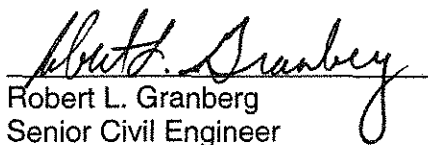
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. The proposed Sharon Avenue right-of-way acquisition remains consistent with Figure II-27 of the Village One Specific Plan. Therefore, there is no new information, which was not known at the time the Program EIR was certified, that has become available, that would change the conclusions of the EIR.

V. **CONCLUSIONS/DETERMINATIONS OF FINDINGS**

- A. This project is within the scope of the project covered by the Village One Program EIR, as modified by the Supplemental EIR.
- B. There are no substantial changes proposed in the project, which will require major revisions of the Village One Program EIR, as modified by the Supplemental EIR.
- C. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR, as modified by the Supplemental EIR.
- D. No new information, which was not known and could not have been known at the time the Village One Program EIR, as modified by the Supplemental EIR, was certified as complete, has become available.
- E. This initial study provides substantial evidence to support findings A, B and C, above.

Signature:


Robert L. Granberg
Senior Civil Engineer

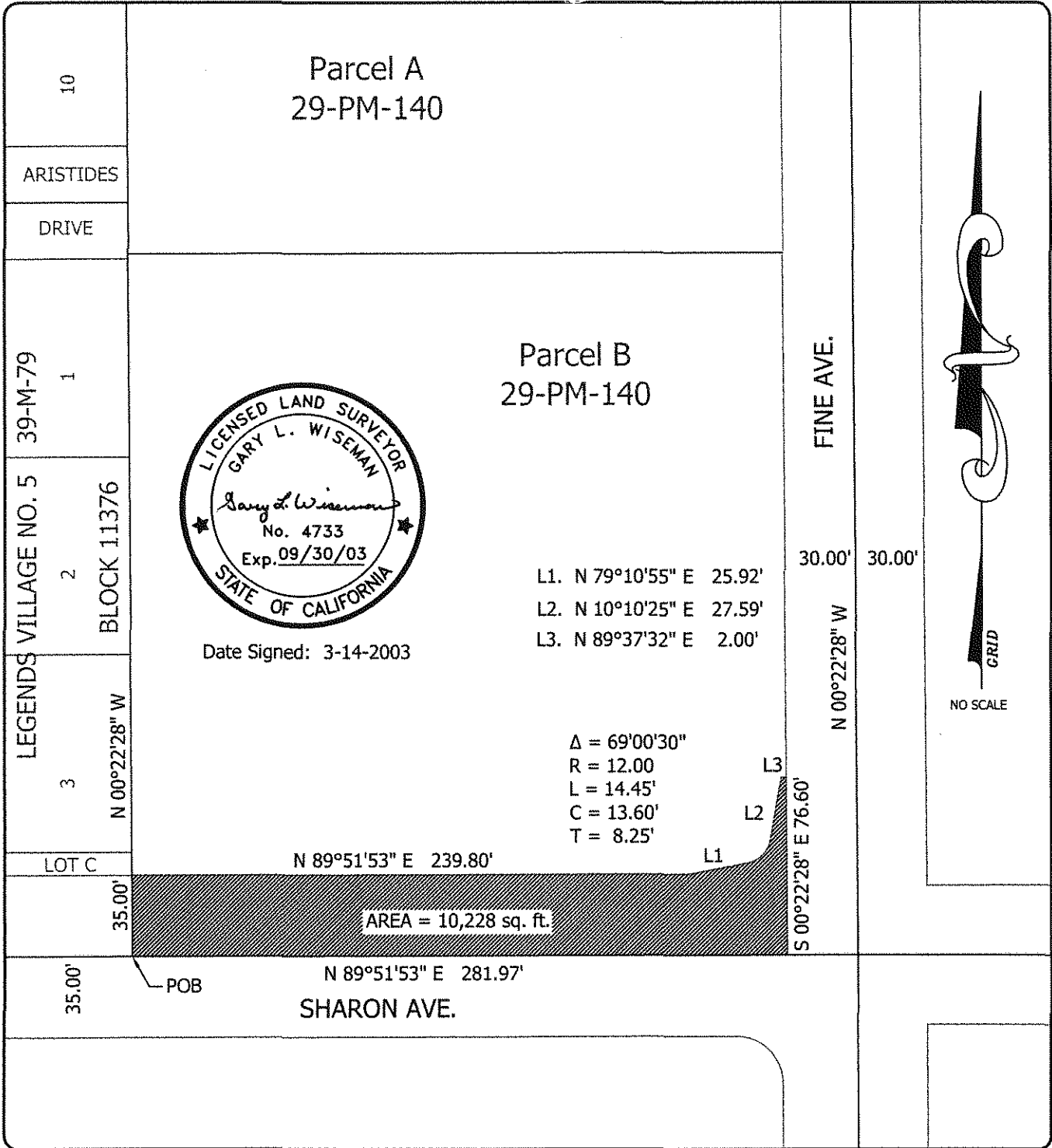
Date: 03/06/03

EXHIBIT A
LEGAL DESCRIPTION
RIGHT OF WAY

All that portion of Lot B as shown in Volume 29 of Parcel Maps, Page 140, Stanislaus county Records lying in Section 13, 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 said Parcel B, thence North $0^{\circ} 22' 28''$ West on the west line of said Parcel B, 35.00 feet to the southeast corner of Lot C in Block 11376 of Legends Village No. 5 as shown on map recorded in Volume 39 of Maps, Page 79, Stanislaus County Records; thence parallel with and 35.00 feet north of the south line of the aforementioned parcel B, North $89^{\circ} 51' 53''$ East 239.80 feet; thence North $79^{\circ} 10' 55''$ East 25.92 feet to the beginning of a curve concave to the northwest, having a radius of 12.00 feet and a central angle of $69^{\circ} 00' 30''$; thence northeasterly on the arc of said curve 14.45 feet; thence North $10^{\circ} 10' 25''$ East 27.59 feet to a point 32.00 west of the centerline of 60.00 feet wide Fine Avenue; thence North $89^{\circ} 37' 32''$ East 2.00 feet to the west line of said Fine Avenue and the east line of aforementioned Parcel B; thence South $0^{\circ} 22' 28''$ West on said east line of Parcel B, parallel with and 30.00 feet west of the centerline of said Fine Avenue, 76.60 feet to the south line of said Parcel B; thence South $89^{\circ} 51' 53''$ West on said south line, 281.97 feet to the point of beginning.

Containing 10,228 square feet (0.235 Acres) more or less.




APPROVED BY:	P.E.
DATE: February 28, 2002	EXP. DATE:
ASBUILT BY:	DATE:
ASBUILT PLOTTED:	DATE:
REVISED:	DATE:
DATE: Feb. 28, 2002	DRAWN BY: Gary Wiseman

Right-of-Way

Sharon Ave. at Fine Ave.

CHECKED BY:	FIELD BOOK:	PAGE:
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CITY of MODESTO
ENGINEERING AND
TRANSPORTATION
DEPARTMENT

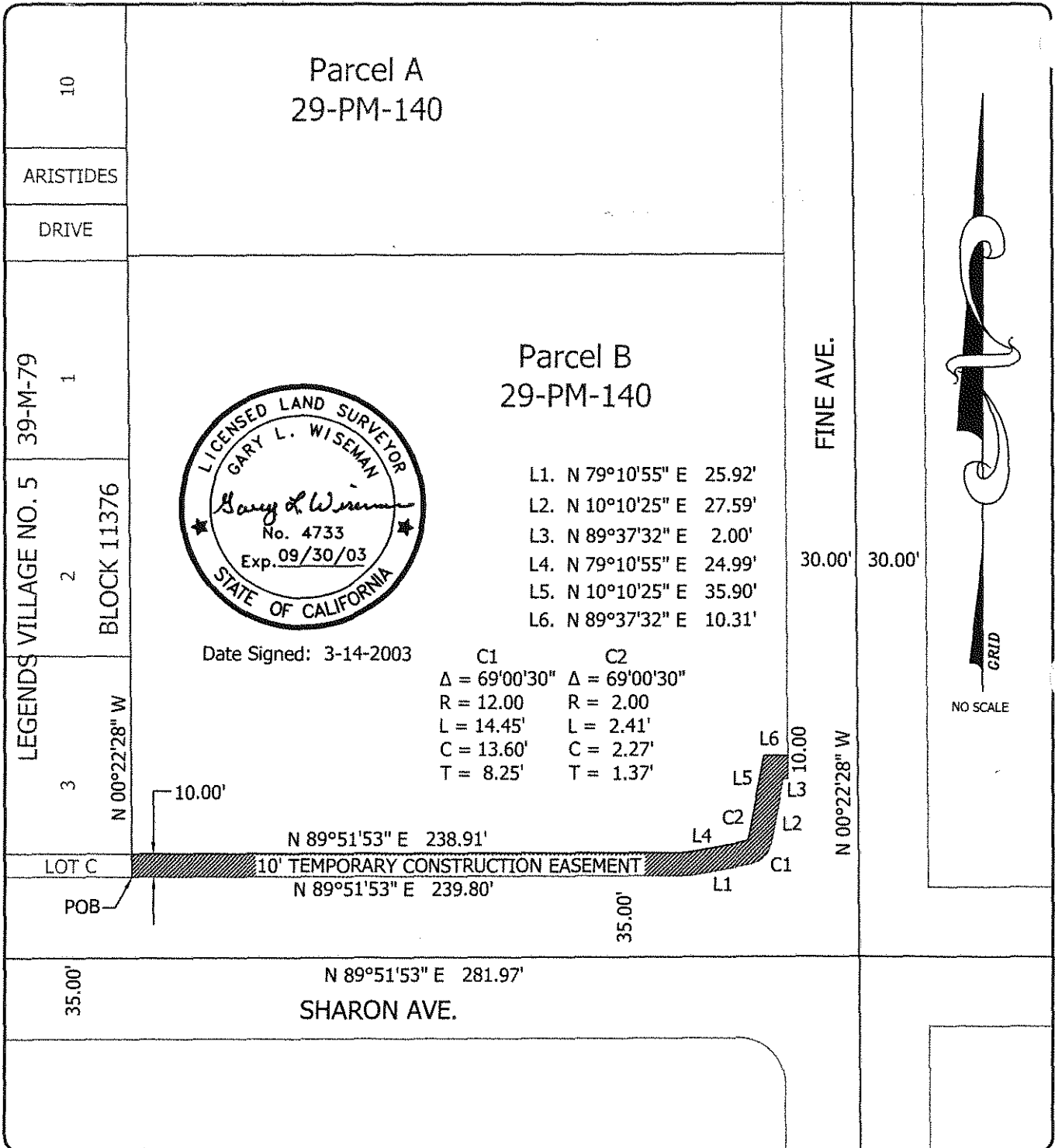
ACTIVITY NO.
FILE NO. 4-A-789

EXHIBIT A
LEGAL DESCRIPTION
10' Temporary Construction Easement

All that portion of Parcel B as shown in Volume 29 of Parcel Maps, Page 140, Stanislaus county Records lying in Section 13, 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:

Commencing at the southwest corner of said Parcel B, thence North $0^{\circ} 22' 28''$ West on the west line of said Parcel B, 35.00 feet to the southeast corner of Lot C in Block 11376 of Legends Village No. 5 as shown on map recorded in Volume 39 of Maps, Page 79, Stanislaus County Records and the POINT OF BEGINNING of this description; thence parallel with and 35.00 feet north of the south line of the aforementioned parcel B, North $89^{\circ} 51' 53''$ East 239.80 feet; thence North $79^{\circ} 10' 55''$ East 25.92 feet to the beginning of a curve concave to the northwest, having a radius of 12.00 feet and a central angle of $69^{\circ} 00' 30''$; thence northeasterly on the arc of said curve 14.45 feet; thence North $10^{\circ} 10' 25''$ East 27.59 feet to a point 32.00 west of the centerline of 60.00 feet wide Fine Avenue; thence North $89^{\circ} 37' 32''$ East 2.00 feet to the west line of said Fine Avenue and the east line of aforementioned Parcel B; thence North $0^{\circ} 22' 28''$ West on said west line of Fine Ave. 10.00 feet; thence South $89^{\circ} 37' 32''$ West 10.31 feet; thence South $10^{\circ} 10' 25''$ West 35.90 feet; thence South $79^{\circ} 10' 55''$ West 24.99 feet; thence South $89^{\circ} 51' 53''$ West 238.91 feet to the west line of the aforementioned Parcel B; thence South $0^{\circ} 22' 28''$ East 10.00 feet to the point of beginning.

Containing 3112 square feet, more or less.



APPROVED BY:	P.E.
DATE: March 14, 2003	EXP. DATE:
ASBUILT BY:	DATE:
ASBUILT PLOTTED:	DATE:
REVISED:	DATE:
DATE: Mar. 14, 2003	DRAWN BY: Gary Wiseman

10' Temporary Construction Easement

Sharon Ave. at Fine Ave.

CHECKED BY:	FIELD BOOK:	PAGE:
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CITY of MODESTO
ENGINEERING AND
TRANSPORTATION
DEPARTMENT

ACTIVITY NO.
0510-420-4222

FILE NO.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-192**

**A RESOLUTION CALLING AN ELECTION FOR THE PURPOSE OF
SUBMITTING THE LEVY OF THE SPECIAL TAX TO THE QUALIFIED
ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO
COMMUNITY FACILITIES DISTRICT NO. 1998-2 (Carver-Bangs/Pelandale-
Snyder, Annexation #2)**

WHEREAS, on February 25, 2003, the City Council adopted Resolution No. 2003-106 (the "Resolution of Intention to Annex") indicating its intention to annex certain territory (the "Annexed Territory") to Community Facilities District No. 1998-2 (the "District") in order to finance certain public facilities (the "Facilities") and services (the "Services") and to authorize the levy of a special tax (the "Special Tax") within the Annexed Territory, pursuant to Chapter 3.5 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, a copy of the Resolution of Intention to Annex, describing the territory proposed to be annexed, the list of Facilities and Services to be financed by the Annexed Territory, and the Special Tax to be levied in the Annexed Territory, and setting the hearing thereon, is on file with the City Clerk , 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 hearing of the City Council was held on April 1, 2003, as required by law related to the proposed annexation of territory and the levy of the Special Tax 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 of territory and the levy of the Special Tax therein and all other matters set forth in the Resolution of Intention to Annex, including all interested persons or taxpayers for or against the proposed annexation of territory and the levy of the Special Tax therein were heard and considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to the City Council on the matters before it, and the City Council at the conclusion of the hearing was fully advised as to all matters related to the proposed annexation and the levy of the Special Tax therein 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 Special Tax therein have not been filed with the City Clerk by fifty percent or more of the registered voters, or six registered voters, whichever is more, residing within either the District or the Annexed Territory proposed to be annexed to the District, or the owners of one-half or more of the area of land in either the territory in the District or the Annexed Territory and not exempt from the Special Tax, 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 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 territory to the District and the levy of the Special Tax therein, 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 territory and the levy of the Special Tax therein have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4.

- (a) The Facilities to be financed by the Annexed Territory are set forth in **EXHIBIT "A"** attached hereto and incorporated herein by this reference.
- (b) The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the Annexed Territory as a result of development occurring therein.
- (c) No land within the Annexed Territory is devoted primarily to agricultural, timber or livestock uses or being used for the commercial production of agricultural, timber or livestock products.

SECTION 5.

- (a) The Services to be financed by the Annexed Territory are set forth in **EXHIBIT "A"** attached hereto and incorporated herein by this reference, including expenses incidental thereto as authorized by Section 53313 of the Act. The

Services are governmental services that the City is authorized by law to provide to the extent that they are in addition to those provided in the Annexed Territory before the territory was annexed to the District.

- (b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the Annexed Territory as a result of development occurring in the Annexed Territory.

SECTION 6. The Public Report related to the Facilities and Services shall be a part of the record in these proceedings.

SECTION 7.

- (a) As stated in the Resolution of Intention to Annex, it is the intention of the City Council, subject to the approval of the qualified electors of the Annexed Territory, to annex territory to the District and levy a Special Tax within the Annexed Territory. Specifically, upon such approval the Council shall levy the Special Tax upon the Annexed Territory.
- (b) The rate, method of apportionment, and manner of collection of the special tax, in sufficient detail to allow each landowner or resident within the Annexed Territory to estimate the maximum amount that he or she will have to pay, is described in EXHIBIT "A" attached hereto and incorporated herein by this reference.

- (c) The Special Tax as apportioned to each parcel pursuant to EXHIBIT "A" is based on the cost of making the Facilities and Services available to each parcel of the Annexed Territory, or other reasonable basis, and is not based on or upon the ownership of real property.

There is no ad valorem property tax currently being levied on property within the Annexed Territory for the exclusive purpose of making lease payments or paying principal or interest on any other indebtedness incurred to finance the construction of capital facilities which are the same as are to be provided by the Facilities to be financed by the Annexed Territory.

SECTION 8. A special election (the "Election") is hereby called as a mail ballot election on the proposition of levying the Special Tax within the Annexed Territory. The City Council further directs that this Resolution shall constitute the notice of the Election on the above proposition. However, the giving of such notice is waived if the City Clerk shall receive unanimous consent to such waiver from the Landowners.

SECTION 9. It is hereby found that there were fewer than twelve registered voters registered to vote within the Annexed Territory on any one day during the ninety days preceding the close of the protest hearing. Pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Annexed Territory and each landowner who is the owner of record at the close of the Hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the Annexed Territory. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

SECTION 10. If the City Clerk shall have received appropriate waivers of time limits and other requirements pertaining to the conduct of the Election by each of the owners of land included in the Annexed Territory (collectively, the "Landowners") on or before Tuesday, the 8th day of April, 2003, the Election shall be held on that day, or on such earlier date on which the City Clerk shall have received such waivers and completed ballots. Otherwise, the Election shall be held on the first Tuesday after that date which is 90 days after the date on which this Resolution is adopted.

The Election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws. Receipt by the City Clerk of this Resolution, a certified map of sufficient scale and clarity to show the boundaries of the Annexed Territory and a sufficient description to allow the City Clerk to determine the boundaries of the Annexed Territory within three business days after the adoption of this Resolution shall be conclusively evidenced by the signature of the City Clerk on the certificate of adoption relating to this Resolution.

In accordance with Section 53326 of the Act, the ballots for the election shall be distributed by mail or by personal service by the City Clerk, with return postage prepaid, to each Landowner, or Landowner's authorized representative for the purpose of voting its interests at the special election, within the Annexed Territory. The City Clerk shall certify the proper mailing or service of ballots by an affidavit, which shall constitute conclusive proof of mailing or service in the absence of fraud. The voted ballots shall be returned to the City Clerk in person or by mail, courier, messenger or other means of delivery not later than 7:00 p.m. on the day of the Election.

SECTION 11. Unless waived with the unanimous consent of all the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis pursuant to Section 5011 of the California Elections Code (the "Elections Code") and arguments and rebuttals, if any, pursuant to Sections 5012 to 5016, inclusive, and 5025 of the Elections Code.

SECTION 12. The Annexed Territory shall constitute a single election precinct for the purpose of holding the Election.

SECTION 13. The City Clerk is hereby authorized to take any and all steps necessary for the holding of the Election. The City Clerk shall perform and render all services and proceedings incidental to and connected with the Election. These services shall include, but not be limited to, the following activities as are appropriate to the Election:

1. Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms;
2. Furnish and address to mail or personally deliver the official ballots to the qualified electors of the Annexed Territory;
3. Cause the official ballots to be mailed or personally delivered, as required by law;
4. Receive the returns of the Election and supplies;
5. Sort and assemble the election material and supplies in preparation for the canvassing of the returns;
6. Canvass the returns of the Election;
7. Furnish a tabulation of the number of votes given in the Election;

8. Make all arrangements and take the necessary steps to pay all costs of the election incurred as a result of services performed for the Annexed Territory and pay costs and expenses of all election officials; and

9. Conduct and handle all other matters relating to the proceedings and conduct of the Election in the manner and form as required by law.

SECTION 14. Following the Election the City Clerk shall present a report to the City Council with the Election results. The Council shall then make a determination as to whether two-thirds or more of the votes cast are in favor of levying the Special Tax within the Annexed Territory. If the Council determines that two-thirds or more of the votes cast are in favor of the Special Tax, the City Council may levy the Special Tax in the Annexed Territory in the amount and for the purposes specified in the Resolution of Intention to Annex. The Special Tax may be levied in the Annexed Territory at the rate and may be apportioned in the manner specified in the Resolution of Intention to Annex and in the attached EXHIBIT "A".

SECTION 15. The City Clerk, in accordance with Sections 3114.5 and 3117.5 of the Streets and Highways Code, shall record an amendment to the Notice of Special Tax Lien originally recorded pursuant to Section 3114.5 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus as Document No. 98-0118243-00 on December 22, 1998, and subsequently amended by Document No. 99-0060033-00 on June 16, 1999.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)

CFD PUBLIC REPORT

March 25, 1999

Prepared For:

CITY OF MODESTO

Prepared By:

DAVID TAÜSSIG AND ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109

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B. Boundaries of CFD No. 1998-2	2
C. CFD Special Tax Structure	2
III. Description of Facilities and Services to be Funded by CFD No. 1998-2	4

APPENDICES:

Appendix A: CFD Boundary Map

Appendix B: Rate and Method of Apportionment of Special Tax and Reimbursements

Appendix C: Detailed Facility Cost Estimates

I. BACKGROUND

Community Facilities District (CFD) No. 1998-2 is being formed to provide a funding and reimbursement mechanism for public facilities and services required to serve the Carver-Bangs and Pelandale-Snyder Specific Plans in the City of Modesto. Portions of both Specific Plan areas are included within the initial boundaries of the CFD, and the remainder of the property within both Plan areas is expected to annex into the CFD at a later date.

As a condition of development of the Specific Plan areas, the developers are required to install various public improvements which will serve the increased population generated from the projects. Many of these improvements must be provided in the early stages of development and, therefore, the first developers to build within the projects must install the improvements and receive fee credits or reimbursements in exchange for the facilities. CFD No. 1998-2 is the vehicle that will be used to ensure that all landowners in the Specific Plans pay their fair share of the public improvements. In addition, the CFD will generate funding for ongoing maintenance of landscaping and open space within the project areas.

Following is a brief description of both projects:

A. Carver-Bangs Specific Plan

On April 1, 1997, the City Council of the City of Modesto approved Resolution No. 97-161, thereby adopting the Carver-Bangs Specific Plan. The Specific Plan was subsequently amended by City Council Resolution 97-633. Carver-Bangs is a proposed 160-acre project bounded on the east by Carver Road, on the North by Bangs Avenue, on the south by the Pelandale-Snyder Specific Plan (discussed further below), and on the west by the Kiernan Business Park area. The Carver-Bangs Specific Plan will be developed under the City's Village Residential guidelines, which will yield approximately 800 single family residential units.

B. Pelandale-Snyder Specific Plan

The Pelandale-Snyder Specific Plan was approved by the City Council on January 16, 1996 by the adoption of Resolution No. 95-16, and was subsequently amended by City Council Resolutions 97-136 and 97-139. The Specific Plan area is bounded by Dale Road on the west, the extension of Pelandale Road on the north, Union Pacific Railroad on the east, and the Modesto Irrigation District canal and Snyder Avenue on the South. Approximately 227 acres of the project are designated Single Family Residential (SFR), and 57 acres are designated Multi-Family Residential; in total, 2,613 residential dwelling units are expected at buildout of the Specific Plan. In addition, 36 acres of the Specific Plan area will be used for an elementary school site, a City park, and a church.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT No. 1998-2

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 1998-2 (Resolution No. 98-582) was adopted by the City Council on November 3, 1998. After a public hearing and a successful election by landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of CFD 1998-2

As mentioned above, the initial boundaries of the CFD include portions of both the Carver-Bangs and Pelandale-Snyder Specific Plans. Additional property is expected to annex into the CFD in future years as development in the area expands. It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax formula as property in the CFD from the start, with a maximum Facilities Special Tax (discussed further below) assigned to the property when it is annexed. Property in the Carver-Bangs Specific Plan is included within Tax Area A of the CFD, and parcels in Pelandale-Snyder make up Tax Area B of the CFD. A separate maximum tax has been calculated for each tax area, as discussed further in Section C below.

The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in Volume 3, page 5 of the Book of Maps of Assessment Districts and Community Facilities Districts in the Stanislaus County Recorder's Office. A copy of the CFD boundary map is provided as Appendix A of this CFD Public Report.

C. CFD Special Tax Structure

1. Facilities Special Tax

Each year, special taxes will be levied and collected from parcels within the CFD to pay costs associated with storm drainage and road improvements, as well as maintenance of these improvements (authorized facilities and maintenance costs are discussed in more detail below). The Rate and Method of Apportionment of Special Tax and Reimbursements ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in Sections D and E of the RMA, two different special taxes will be levied within the CFD. First, a "Facilities Special Tax" will be levied to pay for capital improvements and appurtenant expenses, such as design, planning, engineering and inspection. The entire Facilities Special Tax will be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction on a parcel within the CFD. Because each Specific Plan area is responsible for only the facilities required to serve that area, separate "tax areas" were established within the CFD to avoid any crossover of responsibility for the funding of required infrastructure. A separate Facilities Special Tax has been determined for each assessor's parcel that was included within each tax area at the time CFD No. 1998-2 was formed; Attachment 2 of Appendix B identifies the maximum Facilities Special Tax assigned to each parcel.

Section C.1 of the RMA (Appendix B) explains how the Facilities Special Tax obligation assigned to each original assessor's parcel will be reallocated when subdivision occurs. Regardless of changes in land use in future years, the maximum Facilities Special Tax revenues that can be collected from property in the CFD will never be reduced. In January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each assessor's parcel will be increased by four percent of the amount in effect in the prior year.

Section D of Appendix B sets forth a credit/reimbursement program which allows developers who have constructed and dedicated public improvements to take credits against the Facilities Special Taxes that would otherwise be paid until such credits equal the cost set forth in Appendix C of this CFD Public Report for the public improvements provided by the developer. Regardless of the actual cost incurred by the developer for construction of the public improvement(s), credits against the Facilities Special Tax can be taken until the amount credited is equal to the facility cost shown in Appendix C for that improvement(s). If the developer's project is built out and a balance remains to be credited, the developer will instead receive a cash reimbursement from Facilities Special Taxes collected from other property owners in the CFD until the combined amount of fee credits and cash reimbursements is equal to the cost of the public improvement(s) as shown in Appendix C of this report. All costs and reimbursements are subject to a four percent increase in January 2002 and each January thereafter.

Facility Special Tax credits and reimbursements will be applied based on a specified order of priority, which is identified in Attachment 1 of Appendix B. Until all facilities of a higher priority have been fully funded, a developer who builds an improvement that is of a lower priority will not receive fee credits or reimbursements. The order of priority is specific to each tax area, which means facilities of a lower priority may be funded in one tax area even if the higher priority facilities in the other tax area have not yet been fully funded. Appendix B provides a more detailed description of the credit/reimbursement program.

2. *Maintenance Special Tax*

The second special tax that can be levied in the CFD is the "Maintenance Special Tax", which will be collected to pay costs associated with maintaining parkways and open space in both Specific Plan areas. Again, a separate maximum Maintenance Special Tax has been determined for Tax Area A and Tax Area B, as shown in the following table:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre

* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

The Maintenance Special Tax will be collected each fiscal year on the property tax bills of all parcels in the CFD that have had a final building permit inspection conducted or a certificate of occupancy issued prior to June 1 of the preceding fiscal year.

III. FACILITIES AND SERVICES TO BE FUNDED BY CFD No. 1998-2

The facilities and services described below are all facilities which the City of Modesto is authorized to finance and which are required to adequately meet the needs of CFD No. 1998-2. The special taxes required to pay for these facilities and services will be apportioned according to the "Rate and Method of Apportionment of Special Tax" included as Appendix B of this report.

Capital Improvements

A. Carver-Bangs (Tax Area A)

Following is a summary of the capital improvements to be funded through CFD No. 1998-2 to serve the Carver-Bangs Specific Plan. A detailed breakdown of facility components and the corresponding cost estimates is provided in Appendix C of this report.

Storm Drainage Improvements	\$1,494,750
Prescott Road	145,422
American Avenue	24,033
Bangs Avenue	254,305
Carver Road	57,270
American Avenue Canal Overcrossing	295,066
Class I Bike Trail	142,500
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$2,480,847

B. Pelandale-Snyder (Tax Area B)

Storm Drainage Improvements	\$4,389,042
Dale Road	531,075
Prescott Road	628,297
Tully Road	1,011,016
Snyder Avenue	504,283
Class I Bike Trail	752,675
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$7,883,888

Annual Maintenance Costs

A. Carver-Bangs

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total Cost</u>
Bangs Avenue (South Side)				
8' Landscape Strip (4,680 LF x 8' = 37,400 SF)	37,400	SF	\$0.72	\$26,957
American Avenue (East Side)				
8' Landscape Strip (1,200 LF x 8' =9,600 SF)	9,600	SF	\$0.72	\$6,912
Prescott Road 16' Center Median	10,500	SF	\$0.72	\$7,740
Prescott Road Treewell and Vine Blockouts with 10' Sidewalk and Masonry Wall (56 Each 5' x 5' Treewalls + 56 each 3' x 10' vine blockouts)	3,080	SF	\$0.72	\$2,218
Class I Bike Trail	1,308	SF	\$0.72	\$942
Pelandale Avenue (North Side) Landscape Strip	1,996	SF	\$0.72	\$1,437
Carver Road (West Side) (1, 194 L.F. x 8' = 9,552 S.F.)	9,552	SF	\$0.72	\$6,877
Total Annual Maintenance Costs				<u>\$53,083</u>

B. *Pelandale-Snyder*

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Total</u>	<u>Cost</u>
Dale Road (East Side), 12' Wide Landscape Strip (1,255 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584
Prescott Road (East Side), 12' Wide Landscape Strip (1,225 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584
Prescott Road 16' Center Median	10,750	SF	\$0.72	\$7,740
Tully Road (Both Sides), 12' Wide Landscape Strip (2,650 LF x 12' = 21,800 SF)	31,800	SF	\$0.72	\$22,896
Tully Road 16' Center Median	10,750	SF	\$0.72	\$7,740
Class I Bike Trail	8,820	SF	\$0.72	\$6,350
Pelandale Avenue (South Side)	10,400	SF	\$0.72	\$7,488
Carver West Side Back-up Lots South of Pelandale Avenue (515 L.F. x 5' = 2,575)	2,575	SF	\$0.72	\$1,854
Landscaping Surrounding Storm Drain Basins	35,000	SF	\$0.72	\$25,200
Total Annual Maintenance Costs				\$100,436

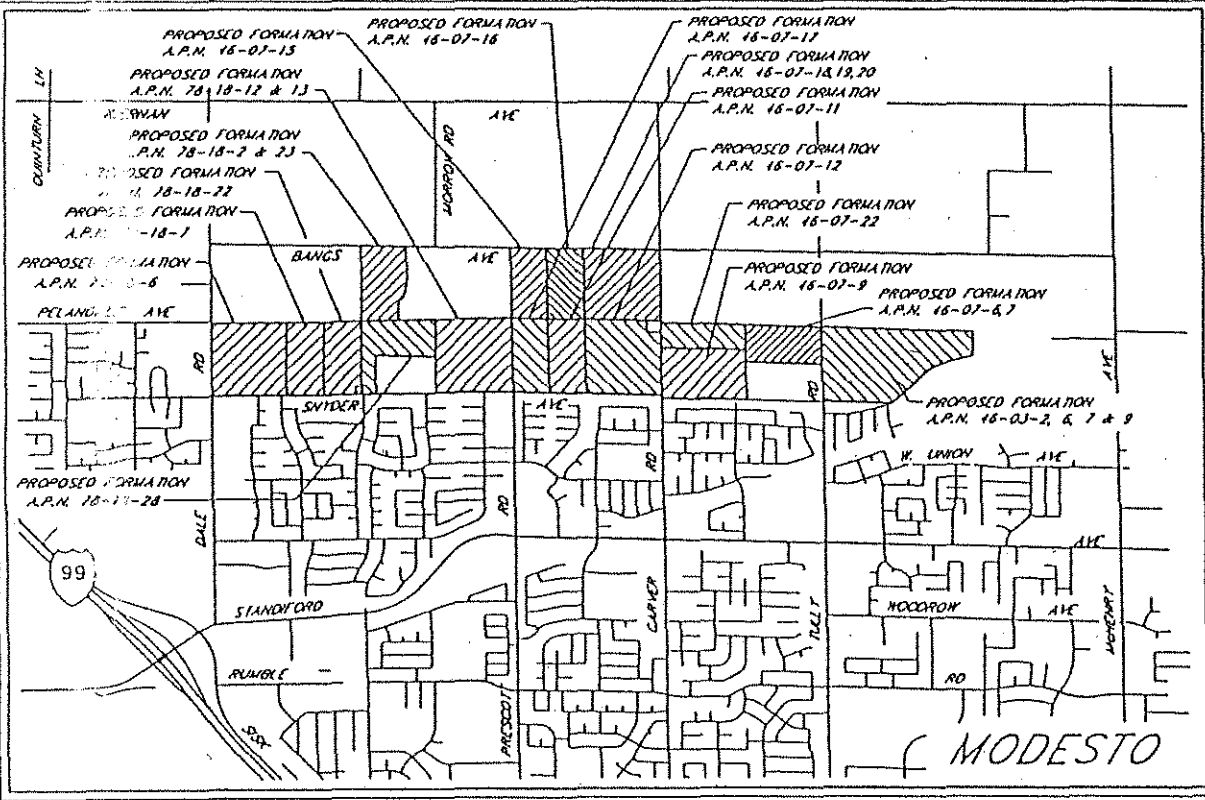
The description of facilities and services, as set forth herein, is general in nature. The final nature and location of improvements will be determined upon the preparation of final plans and specifications.

APPENDIX A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

BOUNDARY MAP

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



CFD 1998-2 FORMATION MAP

NO SCALE



LAND PLANNING • ENGINEERING • SURVEYING

1000 N. 1ST ST., SUITE 100, SACRAMENTO, CA 95811 TEL: (916) 441-1111 FAX: (916) 441-1112

BASIS OF BEARINGS:
THE BEARING OF SOUTH 89°13'30" WEST ALONG THE LINE BETWEEN GPS MONUMENTS 3723 AND 3721 AS SHOWN IN BOOK 32 OF SURVEYS AT PAGE 51, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTE:
THE DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCES BY THE GRID FACTOR (.999830333) TO OBTAIN GRID DISTANCES.

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND WAS BASED ON INFORMATION OF RECORD AS NOTED ON THE MAP. I HEREBY STATE THAT THE MAP SUBSTANTIALLY CONFORMS TO THE REQUIREMENTS FOR A COMMUNITY FACILITIES DISTRICT MAP AS PRESCRIBED IN DIVISION 4.5 OF THE STREETS AND HIGHWAYS CODE.

DATED THIS ____ DAY OF _____, 1998

ROY A. GALLI, R.C.E. 16024

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS ____ DAY OF _____, 1998.

JEAN ZAHN, CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2, (CARVER-BANGS/PELANDALE-SNYDER), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO, AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 1998, BY ITS RESOLUTION NO. _____

JEAN ZAHN, CITY CLERK

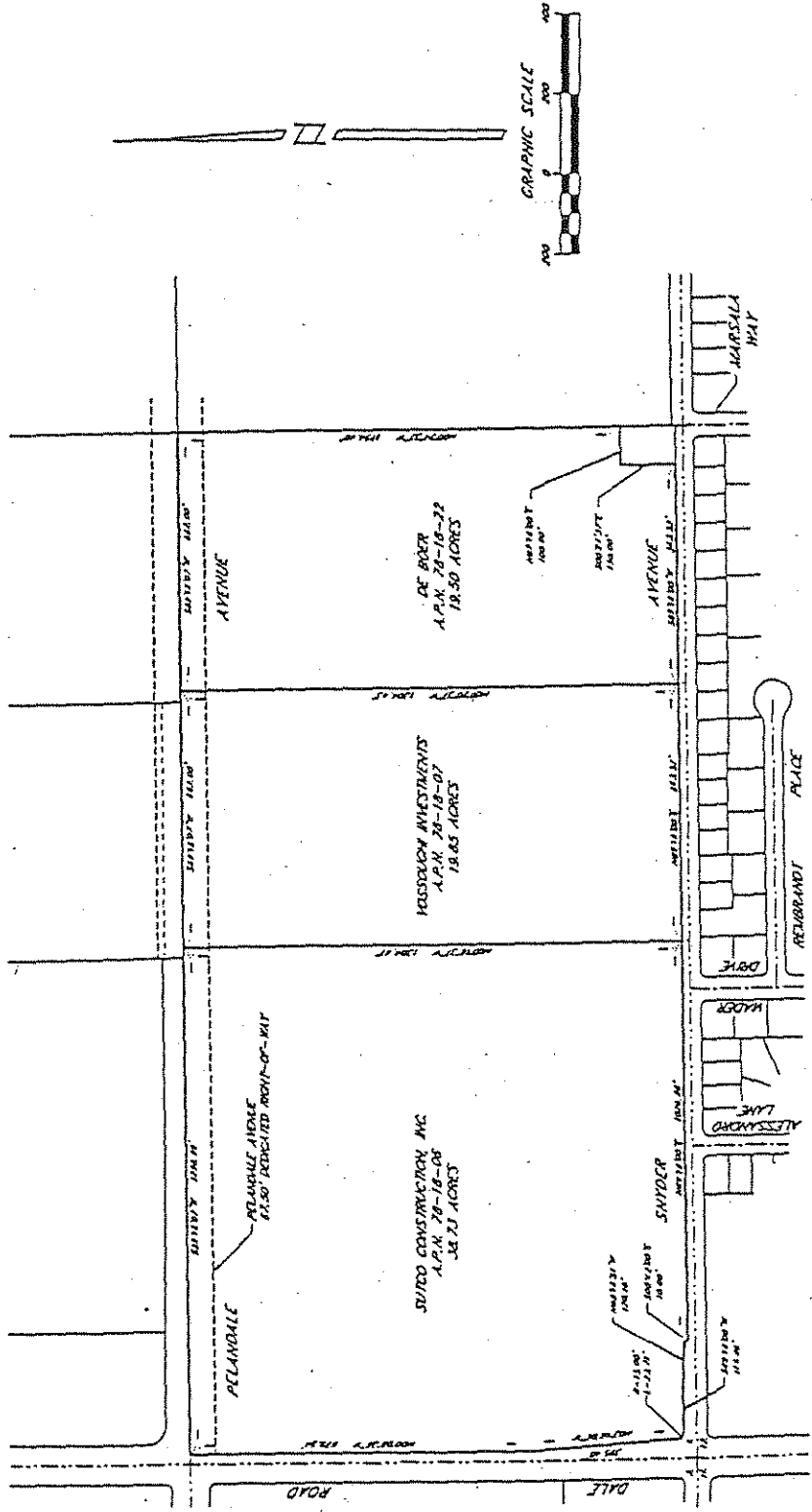
RECORDER'S STATEMENT:

FILED THIS ____ DAY OF _____, 1998, AT THE HOUR OF ____ O'CLOCK ____ M., UNDER RECORDER'S INSTRUMENT NO. _____, IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

KAREN MATHEWS, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA

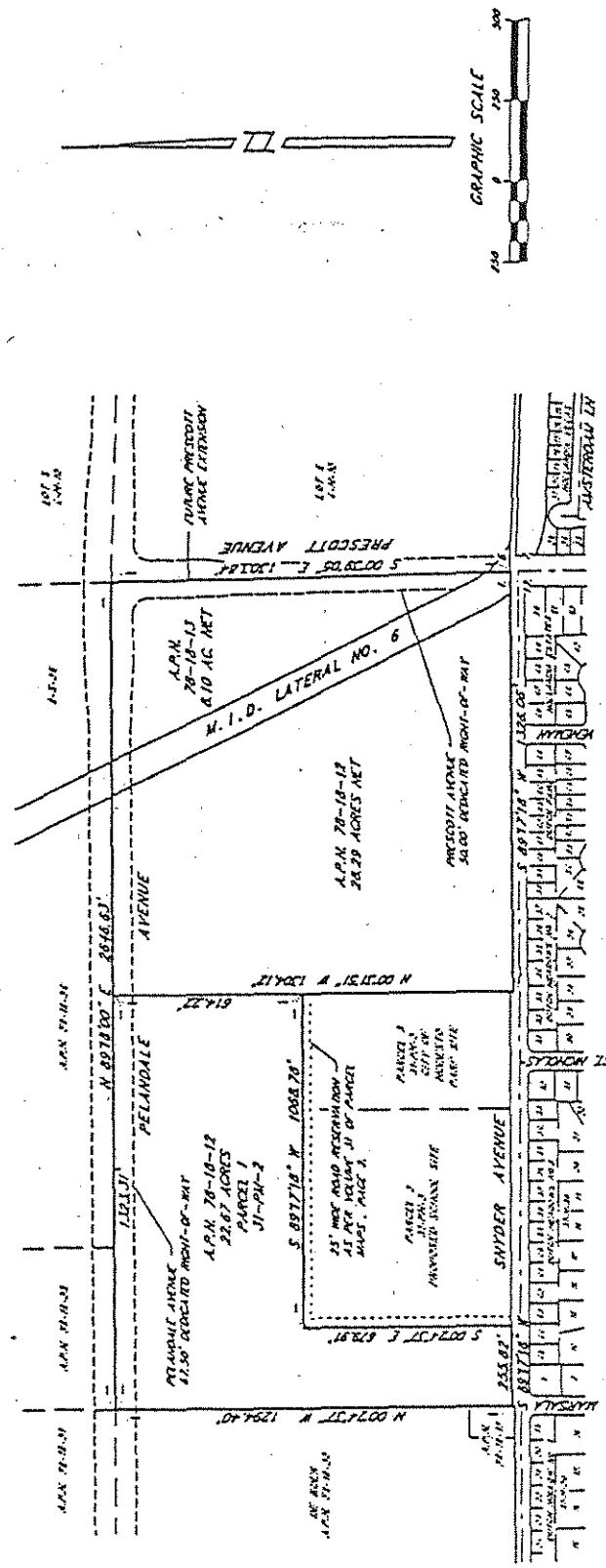
BY: _____ DEPUTY

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
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PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
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APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 1998-2

RATE AND METHOD OF APPORTIONMENT OF
SPECIAL TAX AND REIMBURSEMENTS

EXHIBIT B

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT No. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND REIMBURSEMENTS

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1998-2 (herein "CFD No. 1998-2") 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. 1998-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1998-2 unless a separate Rate and Method of Apportionment of Special Tax and Reimbursements is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, parcel map, or other recorded County parcel map.

"Administration Component" means that portion of the Facilities Special Tax which must be paid (i.e., is not subject to fee credits) prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure. The revenue collected from the Administration Component will be used by the City to pay annual expenses, consultants' fees, and staff time associated with administering the CFD, monitoring the Authorized Facilities and effecting reimbursements, including but not limited to the following: (i) tracking development in the CFD, (ii) preparing the tax roll for the Annual Maintenance Special Tax, (iii) calculating and collecting the Facilities Special Tax, (iv) engineering, (v) planning, (vi) legal services, and (vii) acquisition and construction of land and improvements associated with the Authorized Facilities.

"Administrator" shall mean the person(s) or firm(s) designated by the City to administer the Special Tax according to this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

“Assessor's Parcel” means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

“Assessor's Parcel Map” means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor's Parcel number.

“Authorized Facilities” or “Authorized Facility” means those public improvements (including portions of such public improvements) to be funded by CFD No. 1998-2 as identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements, including appurtenant expenses such as planning, design, engineering and inspection.

“Buildable Lot” means an individual numbered lot which is in its final configuration and for which a building permit may be issued.

“CFD Costs” means the total amount shown in the CFD Public Report to cover costs associated with CFD formation, CFD administration, and engineering, legal services, planning and geotechnical studies related to the Authorized Facilities.

“CFD Public Report” means the report filed with the City Clerk on behalf of CFD No. 1998-2 pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982.

“Church Property” means any Parcel within the CFD that is exempt from ad valorem property taxes because it is owned by a religious organization.

“City” means the City of Modesto.

“Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1998-2.

“Credit/Reimbursement Amount” means the sum of the portion of the CFD Costs and the costs of Authorized Facilities that have been paid in advance by a builder/developer and have not yet been reimbursed to that builder/developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the builder/developer from Facilities Special Taxes collected from other builders/developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“Facilities Special Tax” means a Special Tax collected by the City to pay for one or more of the following: (i) the costs of Authorized Facilities and CFD Costs, (ii) to reimburse a builder/developer who has an outstanding Credit/Reimbursement Amount, and (iii) if all Authorized Facilities have been completed, to pay for maintenance authorized to be funded by the CFD.

“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.*).

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 1998-2, 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 Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

"Non-Residential Property" means, in any Fiscal Year, all Parcels for which a building permit has been issued for a commercial, office or industrial establishment or any other use which is not single family or multi-family residential property and which is not exempt from Special Taxes pursuant to Section F below.

"Order of Priority" means the order in which the Authorized Facilities and CFD Costs must be fully credited or reimbursed before Special Tax Credits can be made against the Facilities Special Tax or reimbursements paid to a builder/developer for other CFD facilities that are of lower priority. The Order of Priority is identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Original Parcel" means an Assessor's Parcel that will be further subdivided upon recordation of a Final Map. The Original Parcels in CFD No. 1998-2 at the time the Resolution of Formation of CFD No. 1998-2 was approved by the Council are listed in Attachment 2.

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Reimbursable Cost" means, for any of the Authorized Facilities, the amount shown in 1998 dollars in the CFD Public Report, which amount shall, beginning in January 2002 and each January thereafter, be increased by four percent (4%) of the amount in effect in the prior year.

"Special Tax Credit" means a waiver of the creditable portion of the Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the builder/developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

"Subdivided Property" means, in any Fiscal Year, all Buildable Lots for which a final building permit inspection has taken place or a certificate of occupancy has been issued prior to June 1 of the preceding Fiscal Year.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel within the CFD.

“Taxable Property” means, in any Fiscal Year, all Parcels in CFD No. 1998-2 that have not been exempted from the Special Tax pursuant to Section F below.

“Tax Area A” means parcels within the Carver-Bangs Specific Plan Area, which Area is shown in Attachment 3A of this Rate and Method of Apportionment of Special Tax and Reimbursements.

“Tax Area B” means parcels within the Pelandale-Snyder Specific Plan Area, which Area is shown in Attachment 3B of this Rate and Method of Apportionment of Special Tax and Reimbursements.

B. ANNUAL MONITORING

The Administrator shall keep an ongoing record of the Acreage and current Assessor’s Parcel numbers within Tax Area A and Tax Area B and, after July 1 of each Fiscal Year, shall identify the Assessor’s Parcels which have become Subdivided Property and, therefore, will be subject to the levy of the Maintenance Special Tax in that Fiscal Year. The Administrator shall also continually monitor Subdivided Property to ensure the Facilities Special Tax is collected prior to final building permit inspection or issuance of a certificate of occupancy (whichever occurs first), unless the Parcel qualifies for a Special Tax Credit, as discussed further in Section D below.

C. MAXIMUM SPECIAL TAX

1. Facilities Special Tax

The maximum 1998 Facilities Special Tax for Original Parcels in CFD No. 1998-2 when the CFD was formed is shown in Attachment 2. Each time a Final Map is approved within the CFD or when Parcels in the CFD are otherwise subdivided or reconfigured, the Administrator shall reallocate the maximum Facilities Special Tax assigned to each Original Parcel to the Subsequent Parcels created by approval of the Final Map as follows:

- Step 1a. Identify the maximum Facilities Special Tax applicable to the Original Parcel being subdivided (the maximum Facilities Special Tax for Original Parcels in the CFD when the CFD was formed are shown in Attachment 2);
- Step 1b. Determine the Acreage of Taxable Property within the approved Final Map;
- Step 1c. Determine the total Acreage of Taxable Property within the Original Parcel being subdivided, including the Taxable Property within the Final Map;

- Step 1d. Divide the Acreage determined in Step 1b by the total Acreage of the Original Parcel determined in Step 1c to calculate a percentage;
- Step 1e. Multiply the percentage determined in Step 1d by the amount identified in Step 1a to calculate the maximum Facilities Special Tax to be allocated to the Final Map area. If a Final Map is approved for a portion of an Original Parcel, the maximum Facilities Special Tax that has not been allocated to the Final Map area will stay assigned to the remainder of the Taxable Property within the Original Parcel until it is further subdivided;
- Step 1f. Spread the maximum Facilities Special Tax calculated in Step 1e to each of the Successor Parcels within the Final Map area based on each Successor Parcel's share of the Acreage of Taxable Property within the Final Map.

After each reallocation of the maximum Facilities Special Tax upon subdivision or reconfiguration of Original Parcels, the sum of the maximum Facilities Special Tax assigned to Subsequent Parcels shall never be less than the maximum Facilities Special Tax assigned to the Original Parcel(s) prior to such reallocation. Beginning in January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. Annual Maintenance Special Tax

All Subdivided Property within the CFD shall be subject to an Annual Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1998-2 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner. The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1998-2 for Fiscal Year 1998-99:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT No. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per-Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre
* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.		

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain builders/developers may be required to pay CFD Costs and fund and construct Authorized Facilities that are ultimately intended to be funded from Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, which will ensure that builders/developers that pay more than their fair share of the CFD Costs and/or Authorized Facilities costs will be reimbursed for the overage.

At the request of the landowners and developers at the time this Rate and Method of Apportionment was prepared and CFD No. 1998-2 was formed, all credits and reimbursements to builder/developers who provide Authorized Facilities shall be in amounts equal to the costs set forth for those Authorized Facilities in the CFD Public Report (except as adjusted as described below). Pursuant to this request, whether the actual cost to build an Authorized Facility is higher or lower than the amount shown in the CFD Public Report for that Authorized Facility, a builder/developer shall be credited and/or reimbursed for the dollar amount included in the CFD Public Report for that Authorized Facility. If there is a cost savings for one Authorized Facility and a cost overrun for another, there is no opportunity pursuant to this Rate and Method of Apportionment for the cost savings to offset the cost overrun.

The following steps shall be applied to implement the credit/reimbursement program:

On an Ongoing Basis

- In January 2002 and each January thereafter, the Administrator shall escalate the following items by four percent (4%): (i) the Facilities Special Tax assigned to each Parcel, (ii) the Credit/Reimbursement Amount outstanding for any builder/developer, and (iii) the costs of Authorized Facilities that have not yet been constructed. An updated list of these three items shall be available each year by February 15.

- The Administrator will keep a current list of the adjustments that have been applied in each year to the items listed above.
- The Administrator will keep track of which Authorized Facilities shown in Attachment 1 have been fully credited or reimbursed to establish the next Authorized Facility to be funded according to the Order of Priority.
- For builder/developers who pay more than their pro-rata share of the cost of particular Authorized Facilities and/or CFD Costs and are due a reimbursement after applying Special Tax Credits, the Administrator shall keep track of the date on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) to ensure that reimbursements of costs that fall within the same Order of Priority will be made on a first incurred/first paid basis.

When a Final Map is Approved by the City Council:

- Step 1.* The Administrator shall determine which Authorized Facilities the builder/developer subdividing the property has funded;
- Step 2.* The Administrator shall determine the Order of Priority for the Authorized Facilities funded by the builder/developer. If the improvements are not first in the Order of Priority, the Administrator shall determine whether facilities that are of a higher priority have yet been fully reimbursed or credited;
- Step 3.* By reference to the detailed cost estimates set forth in the CFD Public Report, the Administrator shall determine the estimated 1998 cost that had been included in the maximum Facilities Special Tax for the Authorized Facilities provided by the builder/developer;
- Step 4.* Using 2002 as the first year of escalation, the Administrator shall escalate the cost of the Authorized Facilities (as shown in the CFD Public Report) provided by the builder/developer to the year in which the Credit/Reimbursement Amount is being calculated. This escalation shall apply on an annual basis (i.e., subtract 2001 from the then current year to determine how many years worth of escalation to apply) and shall be compounded in the same manner as the Facilities Special Tax has been escalated. This escalated cost represents the total Credit/Reimbursement Amount due to the builder/developer, the balance of which, as of the year 2002 and each year following, shall be escalated by four percent (4%) each year until fully reimbursed or credited against Facilities Special Taxes paid by the builder/developer.

Prior to final building permit inspection or issuance of a certificate of occupancy
(whichever occurs first)

Note: the following steps may be applied to a single Parcel or a group of Parcels (i.e., all residential lots within a particular Final Map)

The Administrator shall determine if the builder/developer has an outstanding Credit/Reimbursement Amount and apply one of the following:

Step 1. If there is an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps to determine if a Facilities Special Tax is due from the subject Parcel(s):

Step 1a. Identify the Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding;

Step 1b. Multiply the amount determined in Step 1a by .07 to calculate the Administration Component, which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 1c. Subtract the Administration Component calculated in Step 1b from the Facilities Special Tax identified in Step 1a to calculate the net amount that could be collected for facility costs, and apply one of the following:

- *If the net amount determined in Step 1c is less than the outstanding Credit/Reimbursement Amount for the builder/developer, the Administration Component calculated in Step 1b shall be collected and the builder/developer shall be given a Special Tax Credit against the remainder of the Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract that amount from the outstanding Credit/Reimbursement Amount for that builder/developer.*

- *If the net amount determined in Step 1c is greater than the outstanding Credit/Reimbursement Amount for the builder/developer, subtract the outstanding Credit/Reimbursement Amount from the net amount of Facilities Special Tax calculated in Step 1c to determine the amount that must be paid by the builder/developer. If the calculation is being prepared*

for multiple Parcels at one time, the builder/developer may use up the remaining Credit/Reimbursement Amount by taking Special Tax Credits against the first lots to develop and pay the remaining balance when the subsequent lots develop. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that builder/developer.

Step 2. If there is not an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps:

Step 2a. Identify the Facilities Special Tax assigned to the Parcel(s), which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 2b. Multiply the amount determined in Step 2a by .07 to calculate the Administration Component, which shall remain on deposit with the City;

Step 2c. Subtract the Administration Component calculated in Step 2b from the Facilities Special Tax identified in Step 2a to calculate the net amount that shall be collected to provide reimbursements to builder/developers with outstanding Credit/Reimbursement Amounts;

Step 2d. Determine whether there is an outstanding Credit/Reimbursement Amount due other builder/developers in the CFD and apply one of the following:

- *If there are outstanding Credit/Reimbursement Amounts, look at the Order of Priority of the Authorized Facilities for which a Credit/Reimbursement Amount is due. In addition, identify the dates on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) which were provided to each builder/developer for which a Credit/Reimbursement Amount is outstanding. Reimbursements shall be paid based on the Order of Priority and, if there are multiple Credit/Reimbursement Amounts due within the same priority level, based on the date on which a "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" was issued to each*

builder/developer. After the reimbursements are made, the Administrator shall reduce the Credit/Reimbursement Amount for the builder/developer(s) who received reimbursement by the amount of such reimbursement.

If there are no outstanding Credit/Reimbursement Amounts due any builder/developer, the City shall deposit the Facilities Special Tax into an account which will be designated for funding the Authorized Facilities. The balance in this fund will be used either to pay directly for the construction of Authorized Facilities or to reimburse a builder/developer who constructs Authorized Facilities in future years. The interest earned on funds in this account shall accrue to the account for the same purposes.

E. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The maximum Facilities Special Tax determined pursuant to Section C above shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure within CFD No. 1998-2 and shall be immediately delinquent if not so paid.

2. Annual Maintenance Special Tax

Commencing with Fiscal Year 1999-00 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Subdivided Property as follows:

Step 1: Calculate the total Maintenance Special Tax revenues that could be collected from Subdivided Property within the CFD based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C.2 above;

Step 2: Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1;

Step 3: If the ratio determined in Step 2 is greater than or equal to 1, levy the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 on all Subdivided Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: If the ratio determined in Step 2 is less than 1, levy the maximum Annual Maintenance Special Tax against all Parcels of Subdivided Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 above until the amount so levied equals the Maintenance Special Tax Requirement for the Fiscal Year.

The Annual Maintenance Special Tax for CFD No. 1998-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1998-2 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes levied on the County tax roll.

In no event shall the Maintenance Special Tax levied and collected in one Tax Area be increased due to delinquencies in the other Tax Area.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax and Reimbursements, no Special Tax shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. No Annual Maintenance Special Tax shall be levied on Church Property unless such Church Property is built on a Parcel or Parcels that had previously been developed with residential or non-residential land uses which had paid the Annual Maintenance Special Tax. The maximum Annual Maintenance Special Tax assigned to such Church Property would be equal to the maximum Annual Maintenance Special Tax that had previously been assigned to the residential or non-residential land uses on the property.

The Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus simple 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 pursuing the delinquency by an action on a contract or 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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ATTACHMENT 1

COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER BANGS/PELANDALE-SNYDER) ORDER OF PRIORITY OF AUTHORIZED FACILITIES

First Priority

- Storm drain basin construction (including but not limited to basins, inlet structures, pipelines, and fencing)
- Storm drain trunkline in Snyder Avenue adjacent to school and park sites
- CFD Costs (as identified in the CFD Public Report)
- Engineering design costs for storm drain related improvements (including geotechnical)

Second Priority

- Storm drain basin land purchase for both basins (Van Konynenburg properties), east and west of Modest Irrigation District lateral No. 6

Third Priority

- Storm drain trunk lines (other than trunkline in Snyder Avenue adjacent to school and park sites)

[Note that storm drain trunk lines are specific to each tax area and will remain a third priority within a tax area until all trunk lines within that tax area are credited or reimbursed.]

Fourth Priority

- Storm drain pump station, piping and landscaping around storm drainage basin

Fifth Priority, Tax Area A (Carver Bangs)

- Bike trail
- American Avenue
- Prescott Road
- Bangs Avenue
- Carver Road
- American Avenue crossing of Modest Irrigation District lateral No. 6
- Pedestrian bridge crossing of Modesto Irrigation District lateral No. 6

Fifth Priority, Tax Area B (Pelandale-Snyder)

- Bike trail
- Dale Road
- Prescott Road
- Tully Road
- Snyder Avenue (opposite)
- Tully/Snyder traffic signal

ATTACHMENT 2

**CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
MAXIMUM FACILITIES SPECIAL TAX**

	Carver- Bangs	Pelandale- Snyder
Infrastructure Costs, other than Storm Drainage	\$986,097	\$3,494,846
Plus: Administration 7.00%	\$69,027	\$244,639
Subtotal, Costs other than Storm Drainage	\$1,055,124	\$3,739,485
Storm Drainage Costs	\$1,494,750	\$4,389,042
Plus: Administration 7.00%	\$104,633	\$307,233
Subtotal, Storm Drainage Costs	\$1,599,383	\$4,696,275
Total Costs Assigned to Tax Area	\$2,654,506	\$8,435,760
Total Net Acreage Contributing to Non-Drainage Facilities	137.44	298.40
One-Time Special Tax per Net Acre for non-Drainage	\$7,677	\$12,532
Total Net Acreage Contributing to Storm Drainage	137.44	317.73
One-Time Special Tax per Net Acre for Storm Drainage	\$11,637	\$14,781

<u>Assessor Parcel No.</u>	<u>Property Owner</u>	<u>Net Acreage</u>	<u>1998 Maximum Facilities Special Tax/1</u>
<i>Tax Area A. Carver-Bangs</i>			
78 12 02	Calvary Chapel	0.89	\$17,189
78 18 23	Calvary Chapel	14.19	\$274,065
78 18 24	William Han	28.90	\$558,173
78 18 14	Lowry, Luscher, Donovan	22.60	\$436,495
46 07 15	Kaufman & Broad	16.39	\$316,555
46 07 16	Elaine Fowler	18.11	\$349,775
46 07 18	Ronald Malik	8.75	\$168,997
46 07 19	Ronald Malik	19.30	\$372,759
46 07 20	Ronald Malik	<u>8.31</u>	<u>\$160,499</u>
<i>Total, Carver-Bangs</i>		<i>137.44</i>	<i>\$2,654,506</i>
<i>Tax Area B. Pelandale-Snyder</i>			
78 18 06	TRS Enterprises	35.45	\$968,228
78 18 7	Vossoughi Investments	18.67	\$509,924
78 18 22	Rodney K. Lowe, Inc.	18.35	\$501,184
78 18 28	Corn-Harris Development	20.62	\$563,184
78 18 12	Resource Development	24.08	\$657,685
46 07 17	Marlene Johnston, et. al.	16.22	\$443,009
46 07 11	Verna Mae Johnson Trust	17.95	\$490,259
46 07 12	William P. Couture	35.65	\$973,691
46 07 22	Red Rock Ranch	13.05	\$356,428
46 07 09	Walker Family Partnership	26.90	\$734,706
46 07 07	Resource Development	13.89	\$379,371
46 07 06	Resource Development	4.58	\$125,091
46 07 08	Brent & Diana Holtz	18.62	\$508,559
46 03 02	Big Valley Grace Comm. Church	7.20	\$196,650
46 03 06	Big Valley Grace Comm. Church	9.07	\$247,724
46 03 07	Big Valley Grace Comm. Church	18.10	\$494,356
46 03 09	Big Valley Grace Comm. Church	<u>19.33</u>	<u>\$285,711</u>
<i>Total, Pelandale-Snyder</i>		<i>317.73</i>	<i>\$8,435,760</i>

/1 Maximum taxes shall be increased each year by four percent of the amount in effect in the prior year.

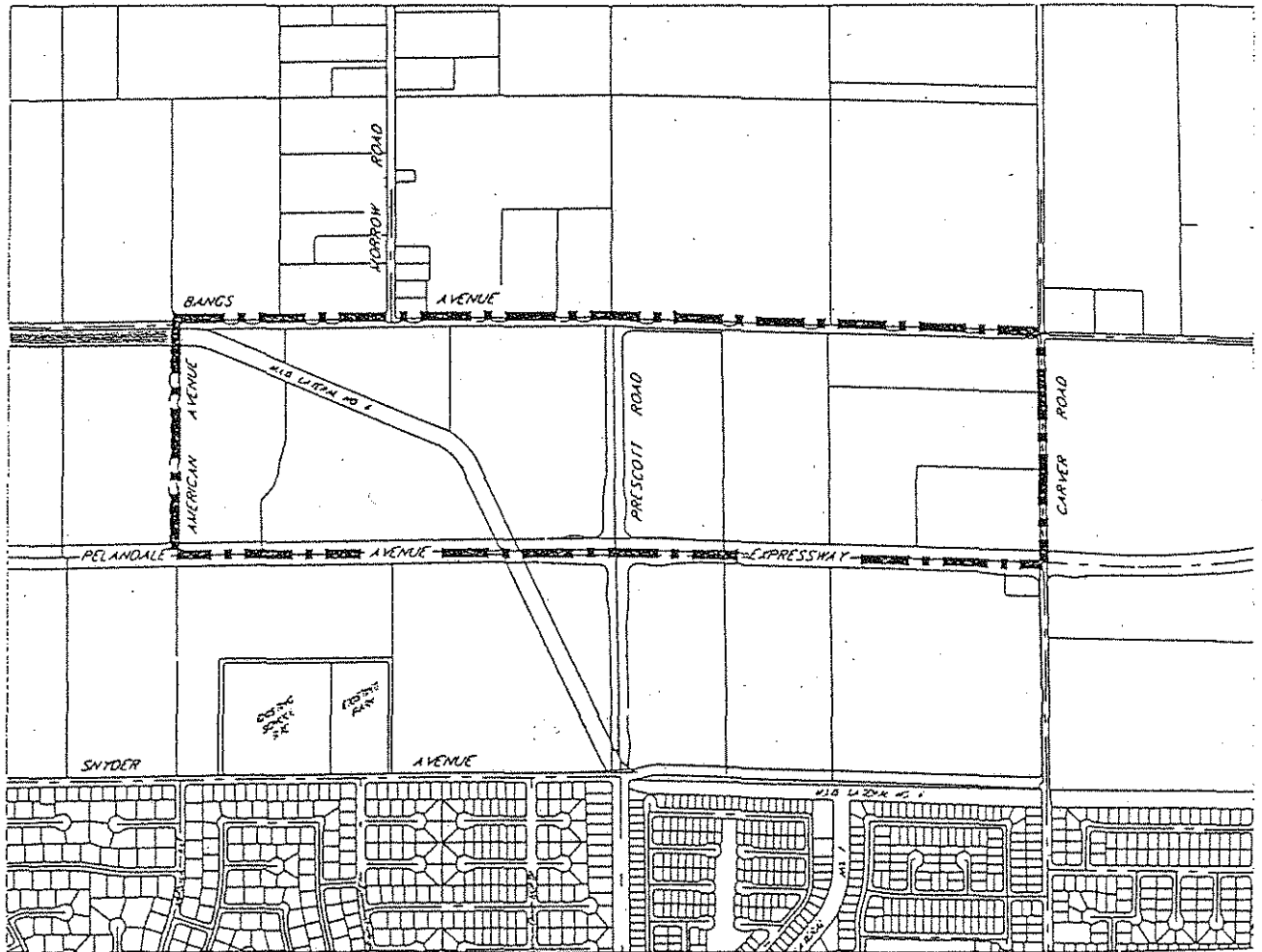
ATTACHMENT 3

COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER BANGS/PELANDALE-SNYDER)

IDENTIFICATION OF TAX AREA A AND TAX AREA B

COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "A"



Drawn J.R.M.
Date 10-14-98
Scale

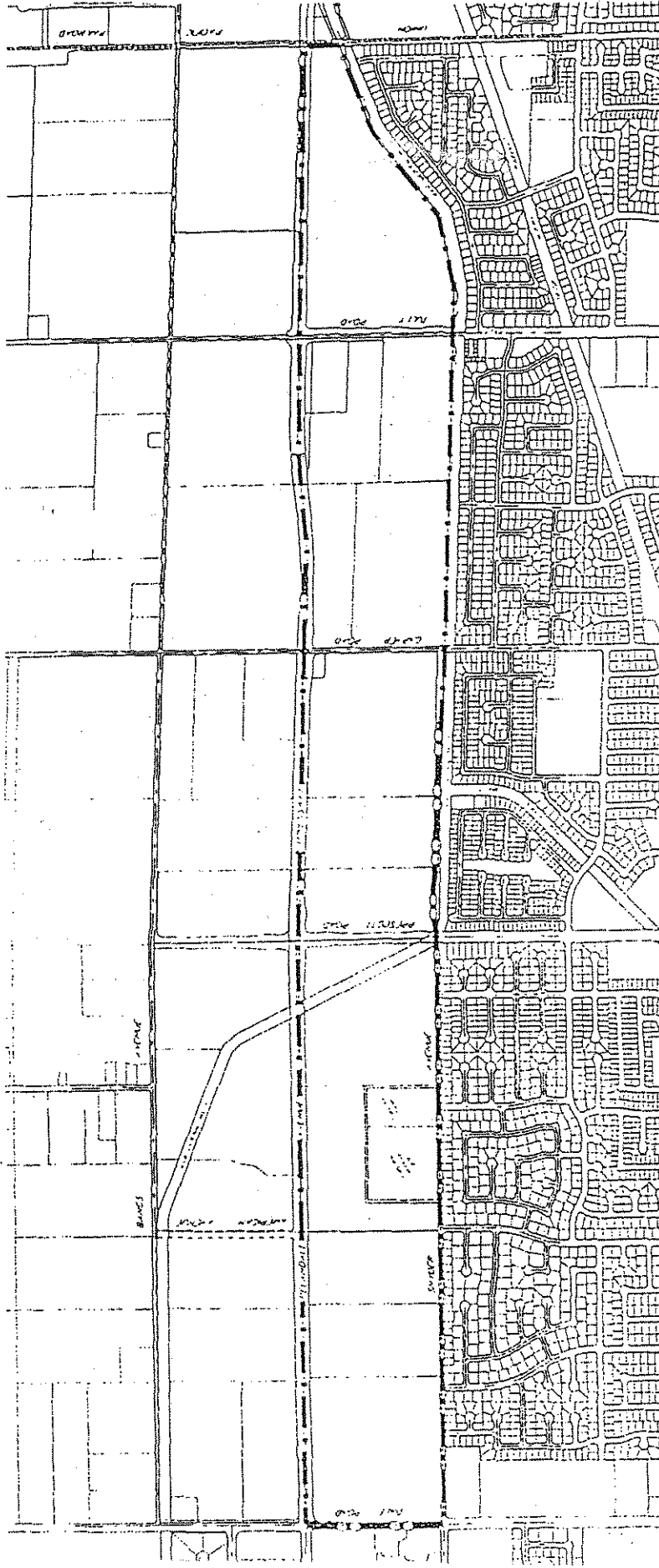
*C.F.D. 1998-2
(CARVER-BANGS/
PELANDALE-SNYDER)*



FAX (209)
528-0803
SHEET
1

COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "B"



**mid-valley
engineering Inc**
 900 H ST STE C, MODESTO, CALIFORNIA 95354
 (209) 526-4214

FAA (209)
526-0803

SHEET

7

OF 7

C.F.D. 1998-2
 (CARVER-BANGS/
 PELANDALE-SNYDER)
 ATTACHMENT 3B

Drawn	JRM
Date	10-14-98
Scale	
Job No.	159-16
Drawn	JRM

APPENDIX C

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 1998-2

DETAILED FACILITY COST ESTIMATES

CARVER-BANGS
(TAX AREA A)

DETAILED FACILITY COST ESTIMATES

**CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT (CFD) 1998-2
SUMMARY**

I. CARVER / BANGS SPECIFIC PLAN AREA

TOTAL ESTIMATED CFD COSTS	\$ 2,480,847
	<u>\$2,424,418</u>

A. C.F.D. FEE PER NET ACRE

\$2,424,418 / 137.44 NET ACRES = COST PER NET ACRE =====>	\$17,640
---	----------

B. ANNUAL LANDSCAPE MAINTENANCE COSTS PER NET ACRE

COST PER NET ACRE =====>	\$715
--------------------------	-------

CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
CFD REIMBURSEMENT PRIORITY

I. ORDER OF REIMBURSEMENT AND/OR CREDIT

A. FIRST PRIORITY

1. STORM DRAIN BASIN CONSTRUCTION (INCLUDING BUT NOT LIMITED TO BASINS, INLET STRUCTURES, PIPELINES, AND FENCING)
2. STORM DRAIN TRUNKLINE IN SNYDER AVENUE ADJACENT TO SCHOOL AND PARK SITES.
3. ALL CFD RELATED FORMATION COSTS (I.E., CITY OF MODESTO, DAVID TAUSSIG AND ASSOCIATES, KAJFMAN & BROAD, RON MALIK, MID-VALLEY ENGINEERING, J.B. ANDERSON LAND PLANNING, RUSSELL A. HARRISON, CONSULTING CIVIL ENGINEER, INC., AND HERUM, CRABTREE, DYER, ZOLEZZI AND TERPSTRA).
4. ALL ENGINEERING DESIGN COSTS FOR STORM DRAIN RELATED IMPROVEMENTS (INCLUDING GEOTECHNICAL).

B. SECOND PRIORITY

1. STORM DRAIN BASIN LAND PURCHASE FOR BOTH BASINS (VAN KONYNENBURG PROPERTIES), EAST AND WEST OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

C. THIRD PRIORITY

1. STORM DRAIN TRUNK LINES.

D. FOURTH PRIORITY

1. STORM DRAIN PUMP STATION, PIPING AND LANDSCAPING AROUND THE STORM DRAIN BASIN.

E. FIFTH PRIORITY

1. BIKE TRAIL.
2. AMERICAN AVENUE.
3. PRESCOTT ROAD.
4. BANGS AVENUE.
5. CARVER ROAD.
6. AMERICAN AVENUE CROSSING OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.
7. PEDESTRIAN BRIDGE CROSSING OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

CARVER BANGS SPECIFIC PLAN AREA (TAX AREA A)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

A. STORM DRAINAGE	\$1,494,750
B. PRESCOTT ROAD	\$145,422
C. AMERICAN AVENUE	\$24,033
D. BANGS AVENUE	\$254,305
E. CARVER ROAD	\$57,270
F. AMERICAN AVENUE CANAL CROSSING	\$295,066
G. CLASS I BIKE TRAIL	\$142,500
H. FORMATION COSTS	\$67,500
	TOTAL CFD COSTS == \$2,480,847

NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE COSTS IS ESTIMATED AT \$751 PER ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF PELANDALE-SNYDER
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. STORM DRAIN TRUNK LINES</u>					
<u>A. CONSTRUCTION</u>					
1.	30" STORM	2,549	LF	\$100.00	\$254,900
2.	36" STORM	1,279	LF	\$121.00	\$154,759
3.	48" STORM	597	LF	\$161.00	\$96,117
4.	SHARE OF 54" STORM DRAIN TO BASIN	46	LF	\$182.00	\$8,372
5.	MANHOLES	14	EA	\$5,750.00	\$80,500
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$594,648
10% CONTINGENCY =====>					\$59,465
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$654,113
<u>II. STORM DRAINAGE BASIN FACILITIES</u>					
<u>A. CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	42,628	CY	\$6.00	\$255,768
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$165,445.00	\$165,445
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$8,943.00	\$8,943
4.	FENCING	1,227	LF	\$16.00	\$19,632
5.	LANDSCAPING	10,433	SF	\$2.80	\$29,212
6.	INLETS	LUMP SUM	LS	\$2,981.00	\$2,981
7.	STRIPPING / CLEARING / DISCING	LUMP SUM	LS	\$2,981.00	\$2,981
SUB-TOTAL STORM DRAIN BASIN FACILITIES =====>					\$484,962
10% CONTINGENCY =====>					\$48,496
TOTAL STORM DRAIN BASIN FACILITIES =====>					\$533,459
<u>B. FEES</u>					
1.	ENGINEERING	1	EST	\$29,808.00	\$29,808
2.	STAKING	1	EST	\$14,755.00	\$14,755
3.	CONSTRUCTION MANAGEMENT	1	EST	\$19,873.00	\$19,873
4.	GEOTECHNICAL	1	EST	\$5,365.00	\$5,365
TOTAL FEES =====>					\$64,436

Carver Bangs Specific Plan Area
 Community Redevelopment District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	COST	AMOUNT
C. LAND ACQUISITION					
1.	LAND PURCHASE	29.61% OF TOTAL COST OF \$1,030,239 =			\$305,054
2.	ADMINISTRATION	LUMP SUM LS			\$2,125,00
TOTAL LAND ACQUISITION ==>					\$307,179
GRAND TOTAL ==>					\$1,494,750

NOTES:

1. THE CARVER-BANGS PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCE WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENTS THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

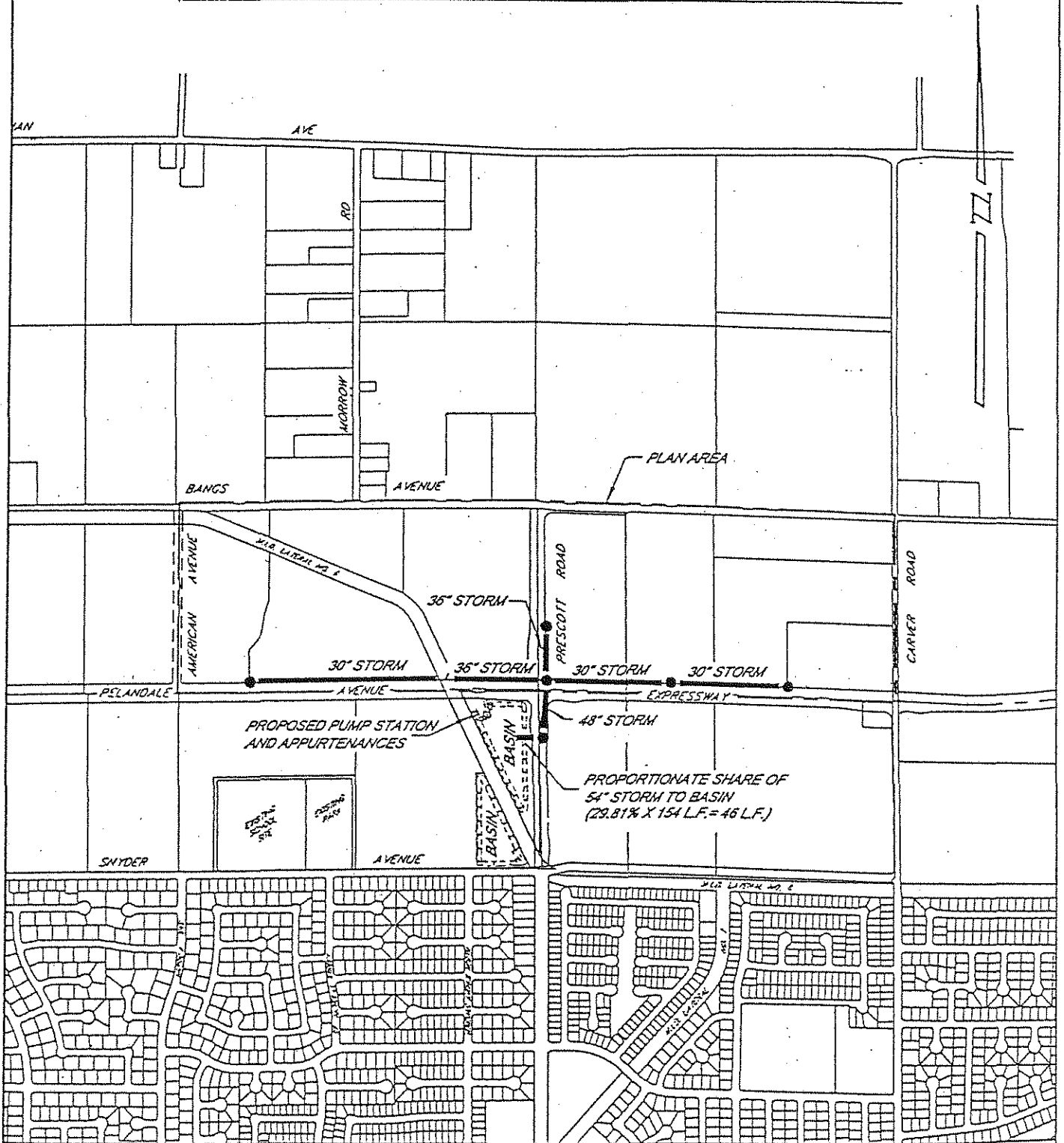
PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	
	509.26

B. CARVER / BANGS PROPORTIONATE SHARE

151.80 / 509.26 = 29.81%

- STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER AND CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID-VALLEY ENGINEERING, INC.
- STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE DOW DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AREA GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

STORM DRAIN SYSTEM



Drawn - J.FREITAS
 Date 4-29-98
 Scale

FIGURE 1
CARVER BANGS



FAX (209) 526-0803
 SHEET 1

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD (20' CFD PORTION)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,323' C.L. TO C.L.)
(REFERENCE FIGURE 2)

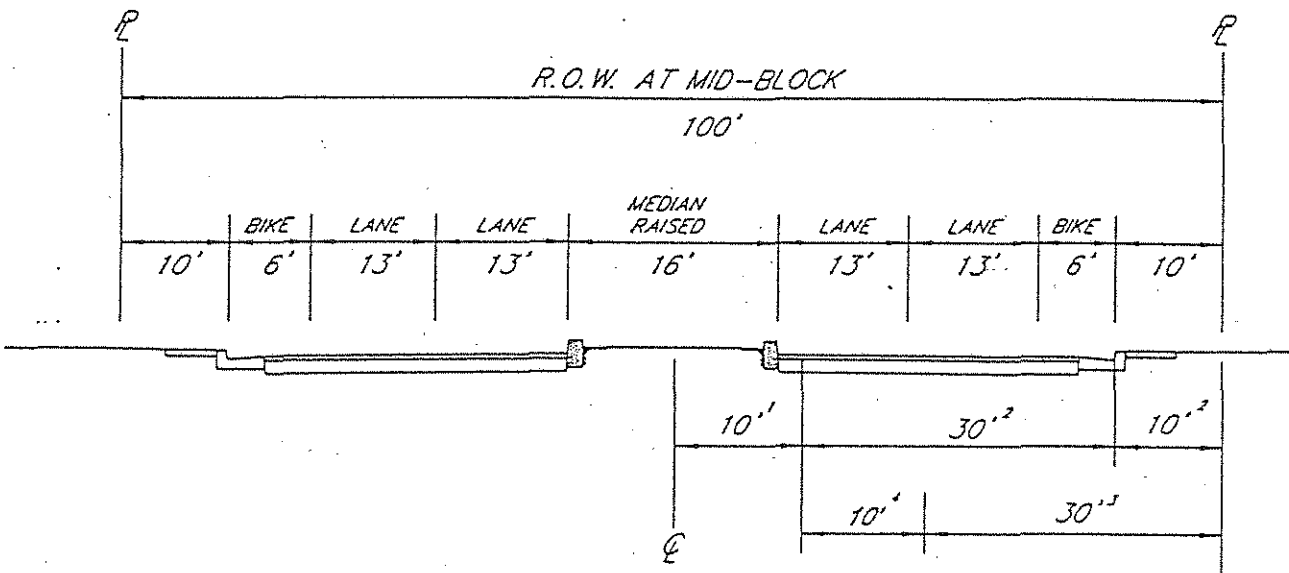
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (20' CFD PORTION)					
1.	CLEARING AND GRADING	24,675	SF	\$0.60	\$14,805
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	24,675	SF	\$2.00	\$49,350
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	200	LF	\$30.00	\$6,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	24,675	SF	\$0.02	\$494
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COST)	1	EST	\$3,207.75	\$3,208
CONSTRUCTION TOTAL =====>					\$81,856
15% CONTINGENCY =====>					\$12,278
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$94,135
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$5,648.08	\$5,648
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$2,824.04	\$2,824
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$3,765.39	\$3,765
TOTAL FEES =====>					\$12,238
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.57	AC	\$65,000.00	\$37,050
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$39,050
GRAND TOTAL =====>					\$145,422

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF PRESCOTT ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM: (SEE FIGURE 2).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, FASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD SECTION

(MID-BLOCK)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.FREITAS
Date	4-29-98
Scale	

FIGURE 2
CARVER BANGS



CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE (2' CFD PORTION HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 3)

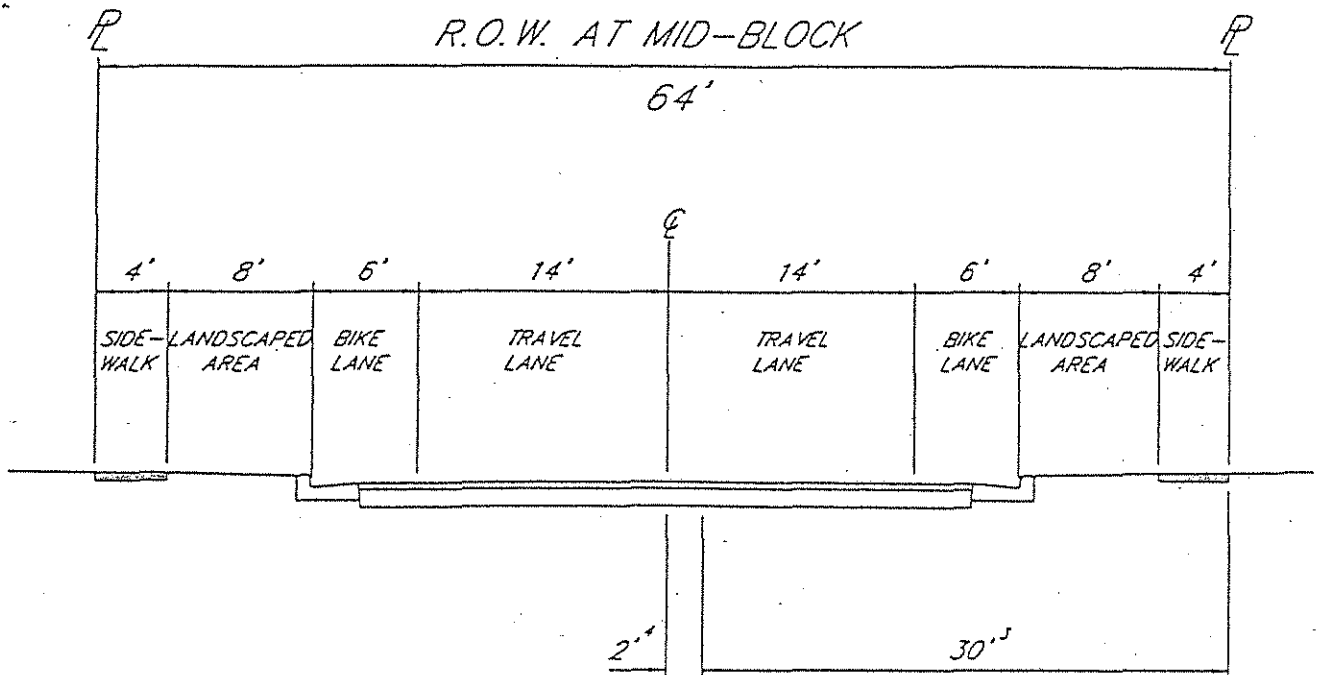
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	2,535	SF	\$0.35	\$887
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	2,535	SF	\$1.75	\$4,436
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	LUMP SUM	LS	\$100.00	\$100
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	LUMP SUM	LS	\$300.00	\$300
					\$14,724
					15% CONTINGENCY =====> \$2,209
					TOTAL PRESCOTT ROAD CONSTRUCTION =====> \$16,932
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$1,015.92	\$1,016
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$507.96	\$508
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$677.28	\$677
					TOTAL FEES =====> \$2,201
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.06	AC	\$65,000.00	\$3,900
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,000.00	\$1,000
					TOTAL LAND ACQUISITION =====> \$4,900
					GRAND TOTAL =====> \$24,033

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF AMERICAN AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 3).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC.

AMERICAN AVENUE SECTION

(MID-BLOCK-LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.R.M.
Date	7-28-98
Scale	

FIGURE 3
CARVER BANGS



CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BANGS AVENUE (9' CFD PORTION, HALF SECTION ONLY)
FROM
AMERICAN AVENUE TO CARVER ROAD (5,350' C.L. TO C.L.)
(REFERENCE FIGURE 4)

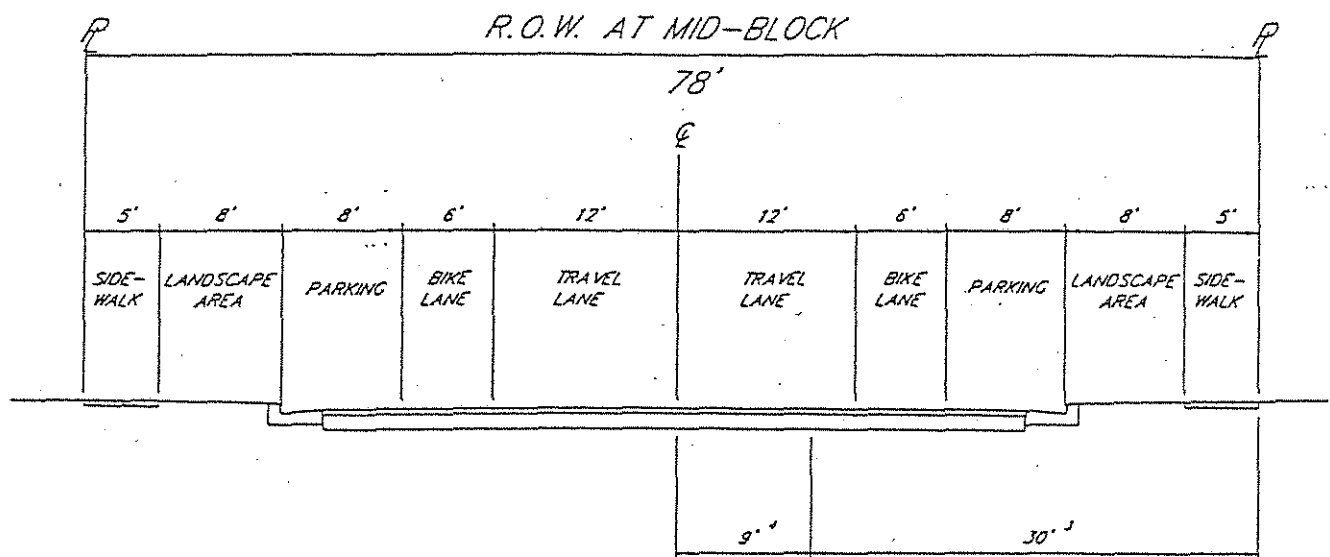
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	48,150	SF	\$0.35	\$16,853
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	48,150	SF	\$1.75	\$84,263
3.	STORM DRAINAGE				
a.	CATCH BASINS	7	EA	\$1,000.00	\$7,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	350	LF	\$30.00	\$10,500
c.	MANHOLES	7	EA	\$2,000.00	\$14,000
4.	PRIME COAT	48,150	SF	\$0.02	\$963
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$5,055.75	\$5,056
CONSTRUCTION TOTAL =====>					\$138,634
15% CONTINGENCY =====>					\$20,795
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$159,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,565.73	\$9,566
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,782.86	\$4,783
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,377.15	\$6,377
TOTAL FEES =====>					\$20,726
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.11	AC	\$65,000.00	\$72,150
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$74,150
GRAND TOTAL =====>					\$254,305

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF BANGS AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 4).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC.

BANGS AVENUE SECTION

(MID-BLOCK LOOKING EAST)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn <i>J.R.M.</i>
Date <i>7-28-98</i>
Scale

FIGURE 4
CARVER BANGS



CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CARVER ROAD (9' CFD PORTION, HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE
(REFERENCE FIGURE 5)

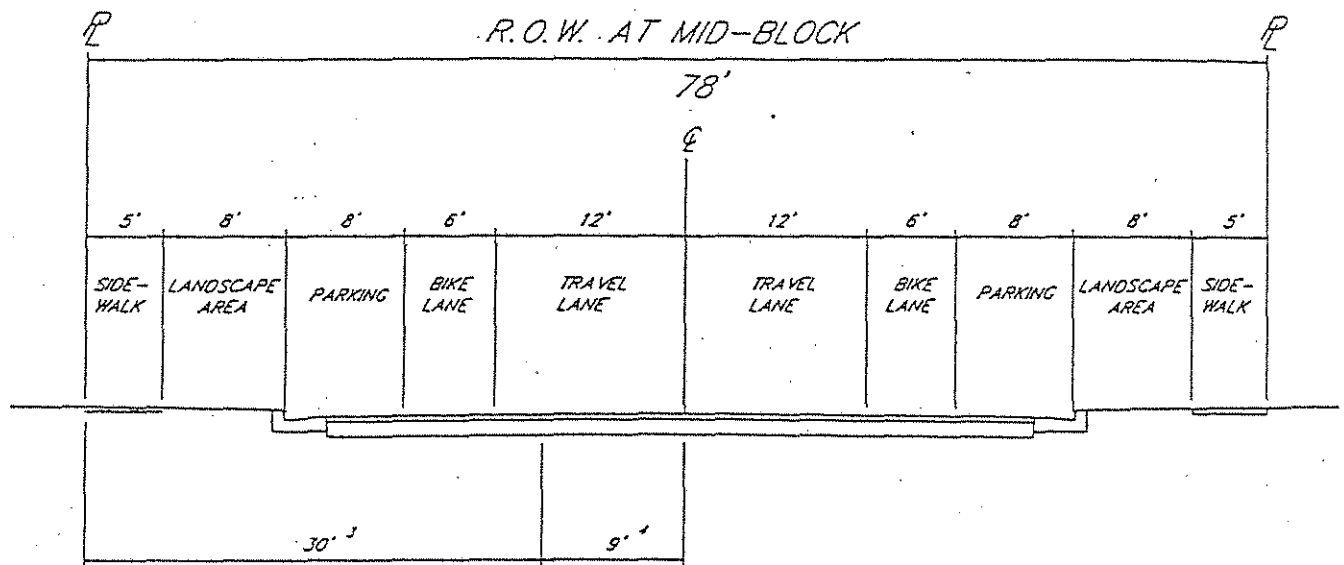
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (6' CFD PORTION)					
1.	CLEARING AND GRADING	9,900	SF	\$0.35	\$3,465
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	9,900	SF	\$1.75	\$17,325
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	9,900	SF	\$0.02	\$198
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$1,039.50	\$1,040
CONSTRUCTION TOTAL =====>					\$31,028
15% CONTINGENCY =====>					\$4,654
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$35,682
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,140.90	\$2,141
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,070.45	\$1,070
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,427.27	\$1,427
TOTAL FEES =====>					\$4,639
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.23	AC	\$65,000.00	\$14,950
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$16,950
GRAND TOTAL =====>					\$57,270

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF CARVER ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 5).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.
3. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

CARVER ROAD SECTION

(MID-BLOCK LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn	J.R.M.
Date	7-28-98
Scale	
Job No.	71-15916

FIGURE 5
CARVER BANGS



FAX (209)
526-0803

SHEET

1

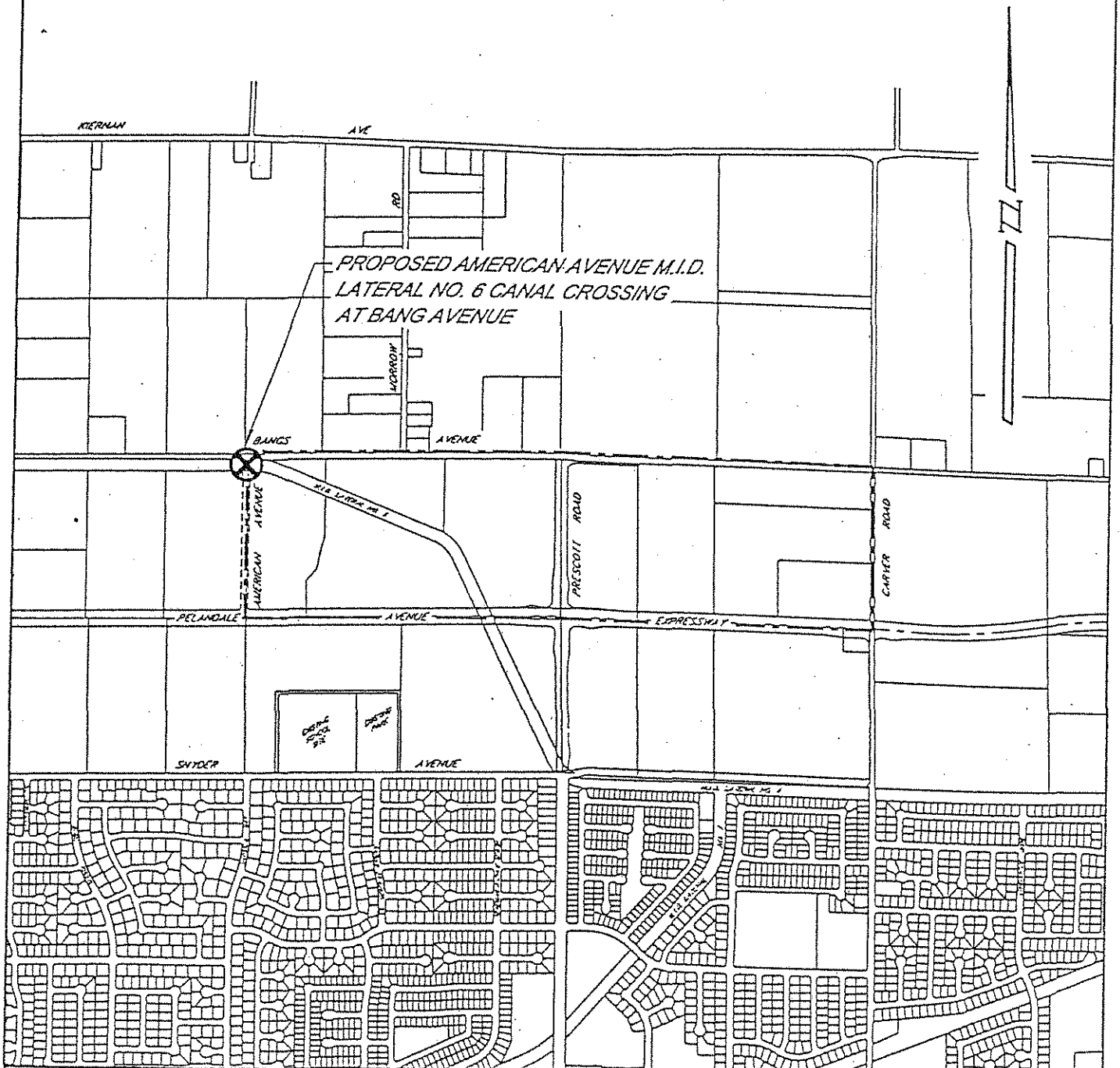
CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
CULVERT CROSSING AT BANGS AVENUE
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION					
1.	CLEARING AND GRADING	LUMP SUM	LS	\$15,000.00	\$15,000
2.	EARTHWORK	LUMP SUM	LS	\$23,750.00	\$23,750
3.	CAST-IN-PLACE REINFORCED CONCRETE 4.5' x 12' DOUBLE BOX CULVERT	LUMP SUM	LS	\$125,000.00	\$125,000
4.	INLET STRUCTURE	1	EA	\$21,200.00	\$21,200
5.	OUTLET STRUCTURE	1	EA	\$21,200.00	\$21,200
6.	FENCING	LUMP SUM	LS	\$4,370.00	\$4,370
7.	UTILITY RELOCATION	1	EST	\$10,000.00	\$10,000
CONSTRUCTION TOTAL =====>					\$220,520
15% CONTINGENCY =====>					\$33,078
TOTAL CONSTRUCTION FOR AMERICAN AVENUE CULVERT CROSSING =====>					\$253,598
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,215.88	\$15,216
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,607.94	\$7,608
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,143.92	\$10,144
4.	GEOTECHNICAL	1	EST	\$5,000.00	\$5,000
5.	MID PERMITTING	1	EST	\$3,500.00	\$3,500
TOTAL FEES =====>					\$41,468
GRAND TOTAL =====>					\$295,066

NOTES:

1. THE ABOVE ESTIMATE INCLUDES THE COST TO INSTALL AN ULTIMATE CROSSING TO ACCOMMODATE THE 64' ULTIMATE AMERICAN AVENUE CROSS SECTION AS SHOWN ON EXHIBIT 4-5 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN.

M.I.D. LATERAL NO. 6 AMERICAN AVENUE CANAL CROSSING



Drawn J.FREITAS

Date 4-29-98

Scale

Job No. 71-150 1A

FIGURE 6

CARVER BANGS



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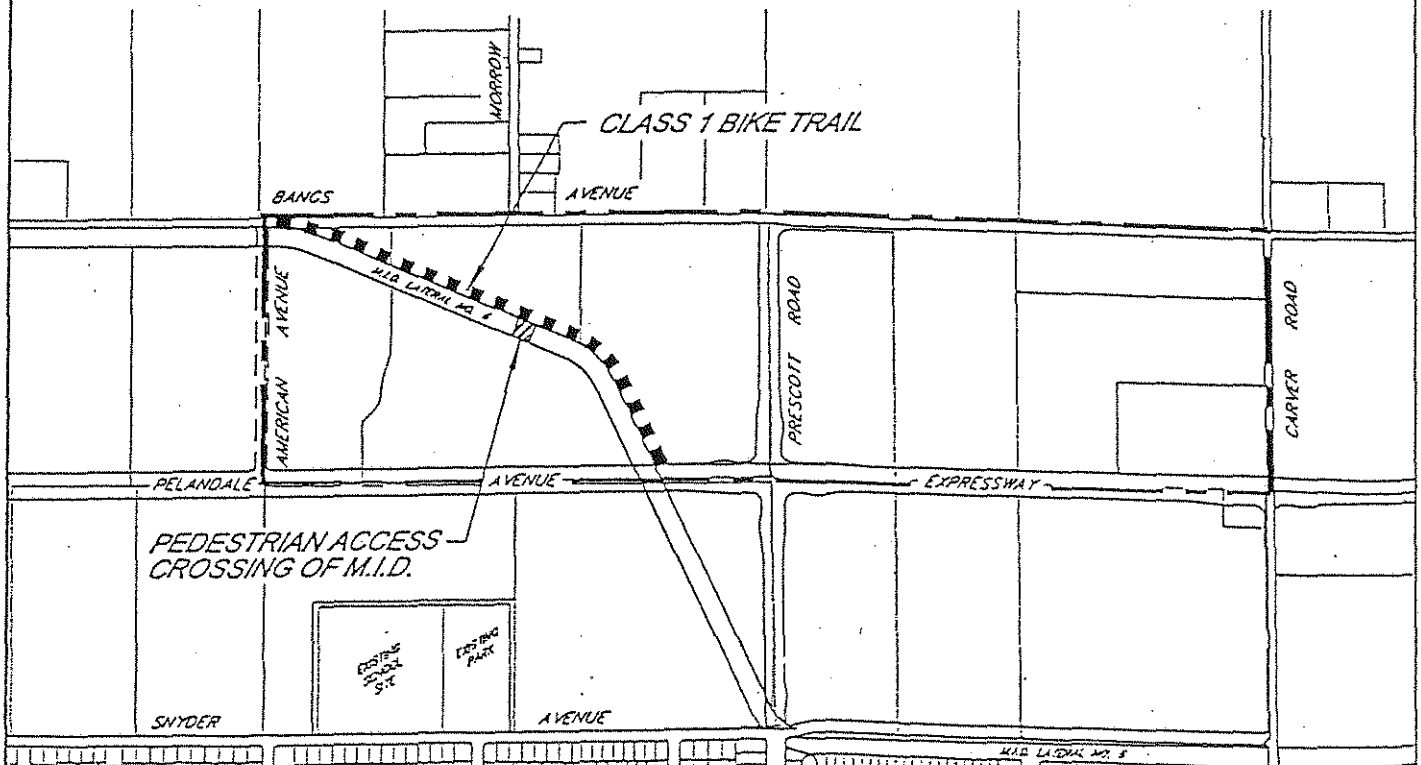
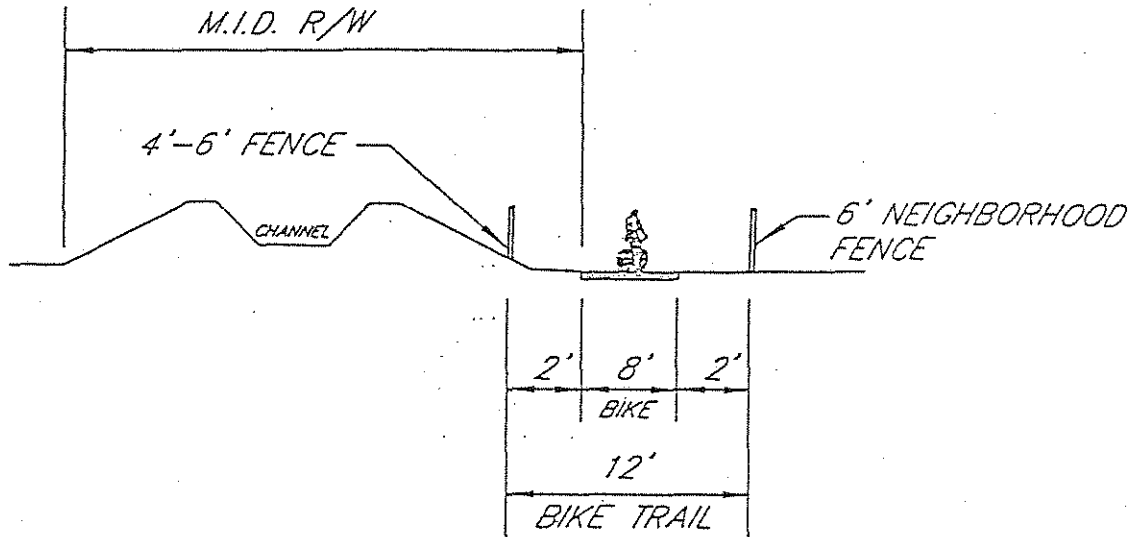
SHEET

1

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CLASS I BIKE TRAIL
AND
PEDESTRIAN ACCESS CROSSING OF
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
(REFERENCE FIGURE 7)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 12' BIKE TRAIL SYSTEM (8' PATH WITH TWO-2' SHOULDER AREAS) IN ACCORDANCE WITH EXHIBIT 4-7 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN				
2.	TOTAL LENGTH 2180 L.F. OR 0.413 MILES				
3.	THE CITY'S CFF PROGRAM HAS THE FOLLOWING CLASS I BIKE TRAIL COSTS INCLUDED:				
	<u>Existing CFF Portion</u>				
	0.413 Miles x \$105,600 =				\$43,613
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH	17,440	SF	\$2.00	\$34,880
2.	2' GRAVEL SHOULDER EACH SIDE (2" DECOMPOSED GRANITE)	8,720	SF	\$0.30	\$2,616
3.	4-6' FENCE	2,180	LF	\$16.00	\$34,880
4.	PEDESTRIAN ACCESS CROSSING	LUMP SUM	LS	\$50,000.00	\$50,000
					----->
				CONSTRUCTION TOTAL	\$122,376
				10% CONTINGENCY	\$12,238
				TOTAL BIKE PATH	\$134,614
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$8,076.82	\$8,077
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,038.41	\$4,038
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,384.54	\$5,385
					----->
				TOTAL FEES	\$17,500
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION (10' WIDE; ASSUME 2' JOINT USE OF EXISTING MID RIGHT-OF-WAY)	0.50	AC	\$65,000.00	\$32,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,500.00	\$1,500
					----->
				TOTAL LAND ACQUISITION	\$34,000
				GRAND TOTAL	\$186,113
				CFF PORTION	\$43,613
				TOTAL CARVER BANGS CFD PORTION	\$142,500

CLASS 1 BIKE PATH / PEDESTRIAN ACCESS CROSSING OF M.I.D. NO.6



Drawn J.R.M.
 Date 7-28-98
 Scale

FIGURE 7
 CARVER BANGS



FAX (209) 526-0803

SHEET 1

PELANDALE-SNYDER
(TAX AREA B)

DETAILED FACILITY COST ESTIMATES

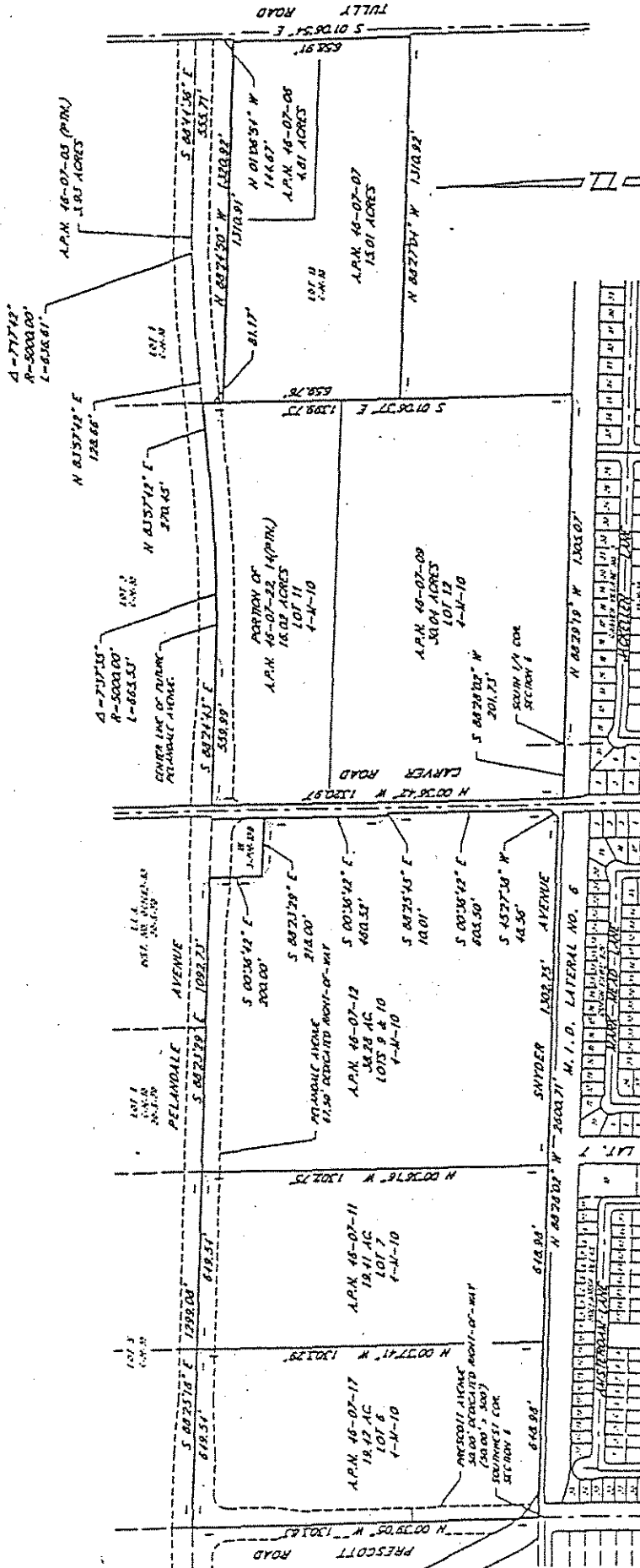
PELANDALE / SNYDER SPECIFIC PLAN AREA (TAX AREA B)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

A. STORM DRAINAGE	\$4,000,232	\$4,389,042
B. DALE ROAD		\$531,075
C. PRESCOTT ROAD		\$628,297
D. TULLY ROAD		\$1,011,016
E. SNYDER AVENUE	\$52,743	\$504,283
F. CLASS I BIKE TRAIL		\$752,675
G. FORMATION COSTS		\$67,500
	TOTAL CFD COSTS =====>	\$7,043,538
		\$7,883,888

NOTE:

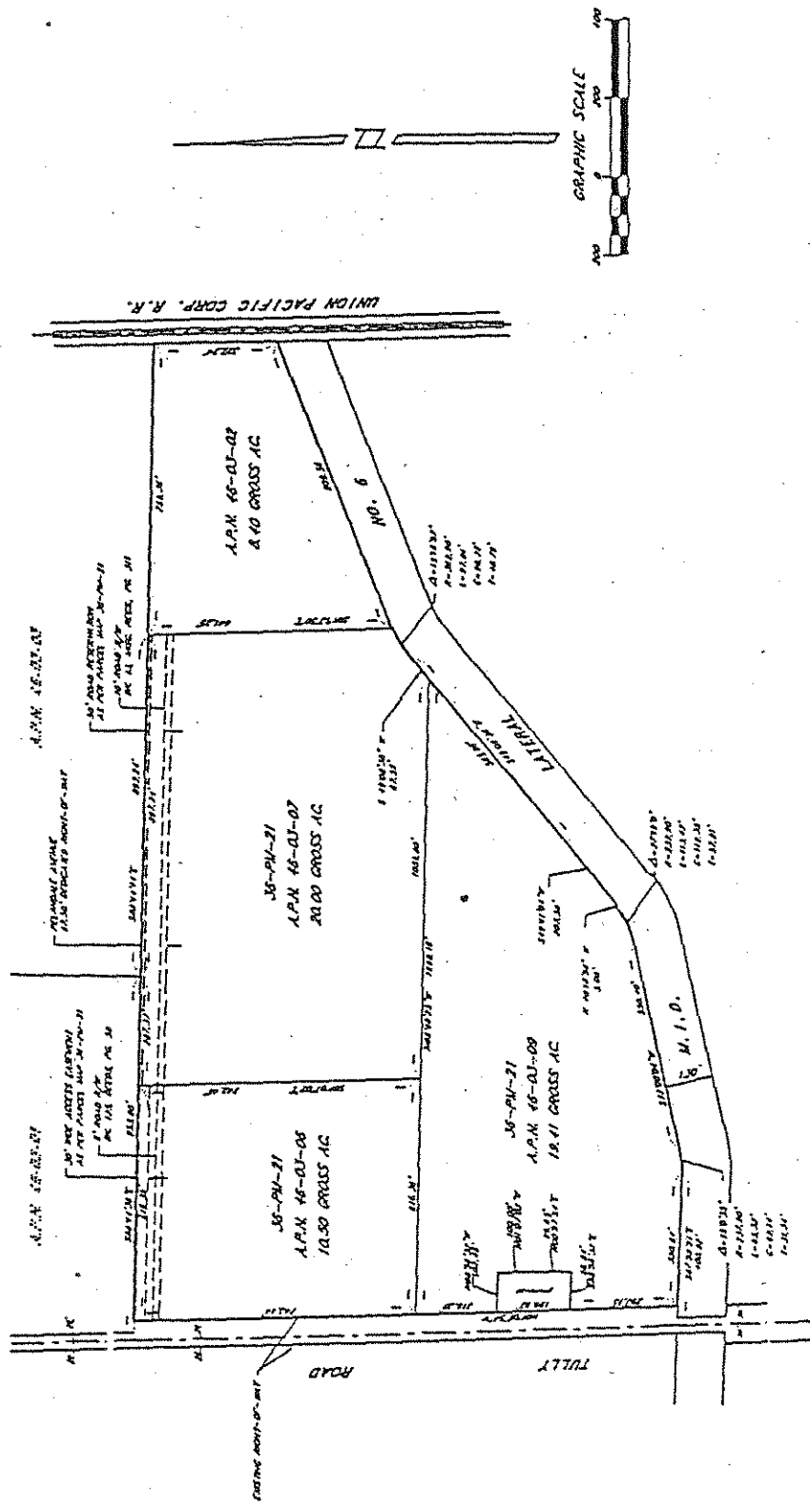
1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR THE PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE AND ADMINISTRATION COSTS ARE ESTIMATED AT \$852 PER NET ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



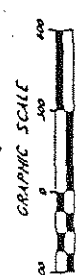
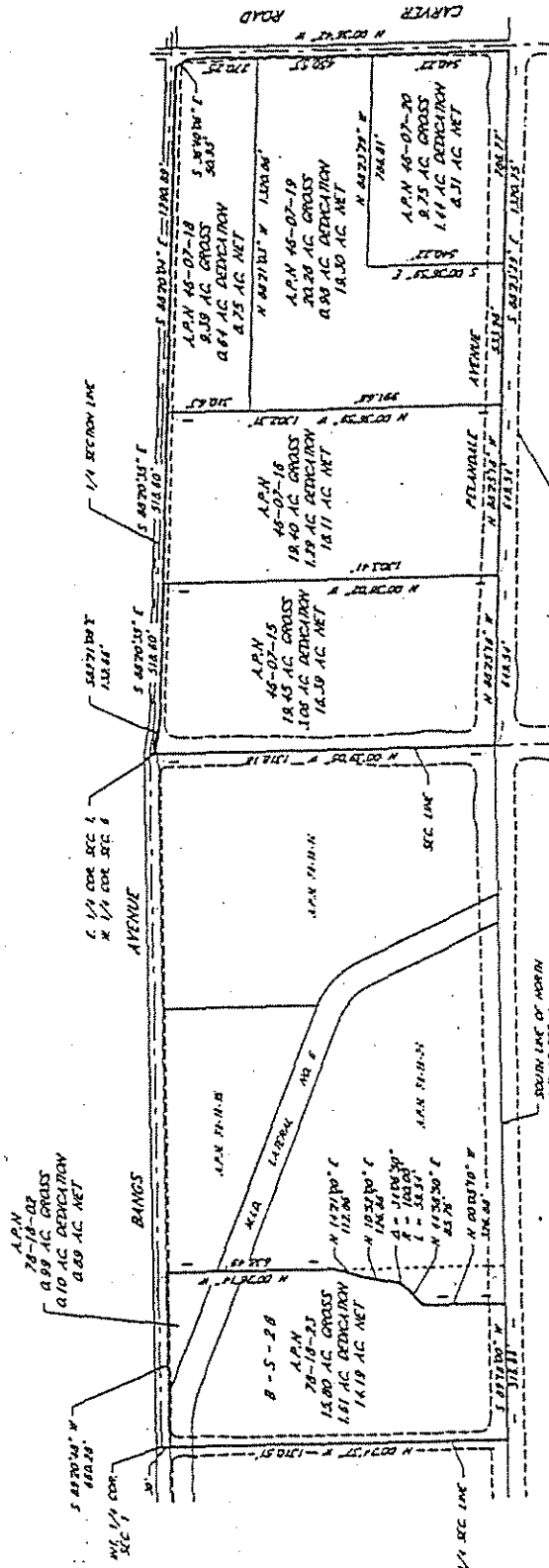
LAND PLANNING • ENGINEERING • SURVEYING
 100 N. FIRST STREET, SUITE 200, STOCKTON, CA 95210-1117 • (209) 938-1100

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING ENGINEERING SURVEYING
 1000 STATE STREET, SUITE 200, SACRAMENTO, CA 95811 • TEL: (916) 486-1111 • FAX: (916) 486-1100

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
 1000 Y STREET, SUITE 1 • SANITIA, CA 95371 • TEL: (920) 337-2111 • FAX: (920) 337-2111

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. STORM DRAIN TRUNK LINES</u>					
<u>A. CONSTRUCTION</u>					
1.	36" STORM	400	LF	\$121.00	\$48,400
2.	42" STORM	1,874	LF	\$155.00	\$290,470
3.	48" STORM	3,661	LF	\$161.00	\$589,421
4.	54" STORM	5,242	LF	\$182.00	\$954,044
5.	PROPORTIONATE SHARE 54" TO BASIN	108	LF	\$182.00	\$19,656
6.	MANHOLES	29	EA	\$5,750.00	\$166,750
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$2,068,741
10% CONTINGENCY =====>					\$206,874
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$2,275,615
<u>II. STORM DRAINAGE BASIN FACILITIES</u>					
<u>B. CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	100,372	CY	\$6.00	\$602,232
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$389,555.00	\$389,555
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$21,057.00	\$21,057
4.	FENCING	2,890	LF	\$16.00	\$46,240
5.	LANDSCAPING	13,170	SF	\$2.80	\$36,876
6.	INLETS	LUMP SUM	LS	\$7,019.00	\$7,019
6.	CLEARING / DISCING / STRIPPING	LUMP SUM	LS	\$7,019.00	\$7,019
SUB-TOTAL					\$1,109,998
10% CONTINGENCY =====>					\$111,000

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. FEES					
1.	ENGINEERING	1	EST	\$70,192.00	\$70,192
2.	STAKING	1	EST	\$34,746.00	\$34,746
3.	CONSTRUCTION MANAGEMENT	1	EST	\$46,796.00	\$46,796
4.	GEOTECHNICAL	1	EST	\$12,635.00	\$12,635
TOTAL FEES ==>					\$164,369
D. LAND ACQUISITION					
1.	LAND PURCHASE	70.39% OF TOTAL COST OF \$1,030,239 =			\$725,185
2.	ADMINISTRATION	LUMP SUM	LS	\$2,875.00	\$2,875
TOTAL LAND ACQUISITION ==>					\$728,060
PELANDALE - SNYDER STORM DRAIN FACILITIES TOTAL ==>					\$4,389,042

NOTES:

1. THE PELANDALE-SNYDER PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCES WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRE THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

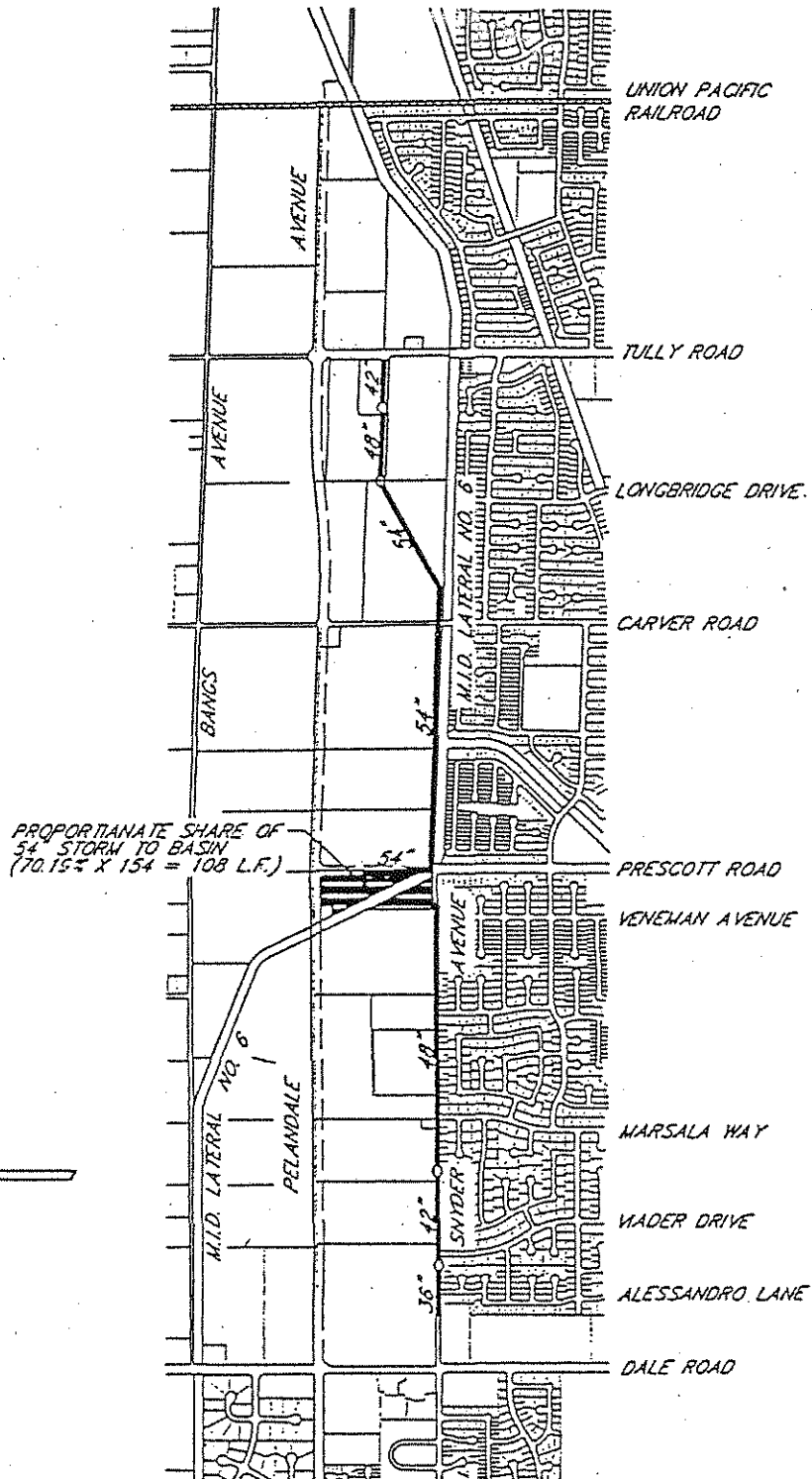
PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	
	509.26

B. PELANDALE / SNYDER PROPORTIONATE SHARE

$357.46 / 509.26 = 70.19\%$

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER A CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID VALLEY ENGINEERING, INC.
3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE D DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AR GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

BACKBONE STORM DRAIN SYSTEM



Drawn J.R.M.
 Date 8-13-98
 Scale
 Job No. 70-332

FIGURE 1
PELANDALE SNYDER
 CDD FORMULATION



FAX (209) 526-0803
 SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
DALE ROAD (CENTER 20' C.L. TO C.L.)
AND EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS
SNYDER AVENUE TO PELANDALE AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 2)

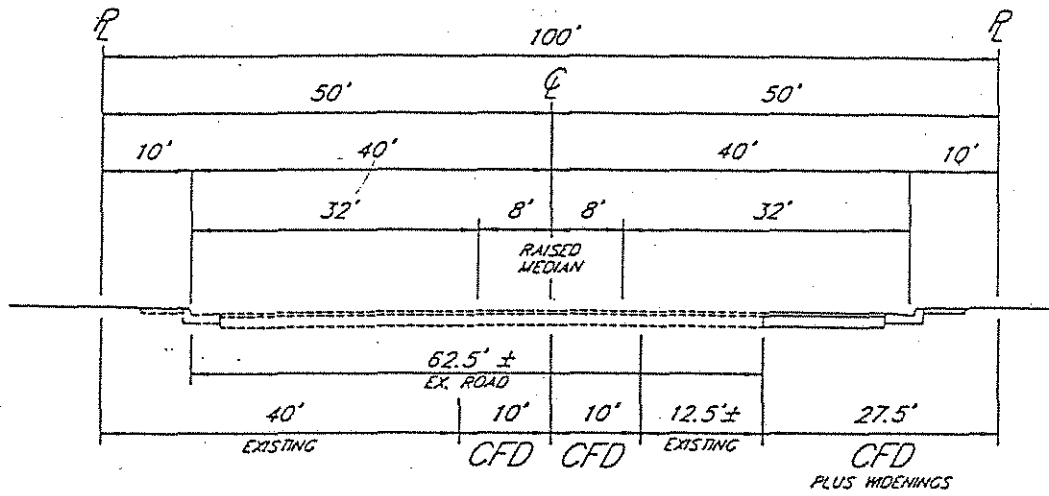
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. DALE ROAD CENTER 20 FEET</u>					
<u>A. CONSTRUCTION</u>					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	26,400	SF	\$1.50	\$39,600
2.	MEDIAN CURB	2,690	LF	\$15.00	\$40,350
3.	MEDIAN COVER	17,520	SF	\$3.50	\$61,320
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10; R.V. = 50)	5,280	SF	\$2.00	\$10,560
5.	STRIPING	LUMP SUM	LS	\$5,000.00	\$5,000
CONSTRUCTION TOTAL =====>					\$156,830
10% CONTINGENCY =====>					\$15,683
TOTAL DALE ROAD CONSTRUCTION =====>					\$172,513
<u>B. FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$10,350.78	\$10,351
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$5,175.39	\$5,175
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,900.52	\$6,901
TOTAL FEES =====>					\$22,427
DALE ROAD CENTER 20 FEET GRAND TOTAL =====>					\$194,940

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	30,492	SF	\$0.60	\$18,295
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	22,104	SF	\$2.00	\$44,208
3.	STORM DRAINAGE				
a.	12" STORM DRAIN	800	LF	\$30.00	\$24,000
b.	15" STORM DRAIN	420	LF	\$37.00	\$15,540
c.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
d.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
e.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,300	SF	\$3.00	\$36,900
5.	6" VERTICAL CURB AND GUTTER	1,230	LF	\$9.00	\$11,070
6.	RETURN AT PELANDALE AVENUE	1	EA	\$1,000.00	\$1,000
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,760	SF	\$2.80	\$41,328
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$3,125.16	\$3,125
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$4,500.00	\$4,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,230	LF	\$10.00	\$12,300
12.	PRIMECOAT	22,104	SF	\$0.02	\$442
CONSTRUCTION TOTAL =====>					\$232,208
10% CONTINGENCY =====>					\$23,221
TOTAL DALE ROAD CONSTRUCTION =====>					\$255,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,325.76	\$15,326
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,662.88	\$7,663
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,217.17	\$10,217
TOTAL FEES =====>					\$33,206
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.70	AC	\$65,000.00	\$45,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$47,500
DALE ROAD FRONTAGE GRAND TOTAL =====>					\$336,135
DALE ROAD GRAND TOTAL =====>					\$531,075

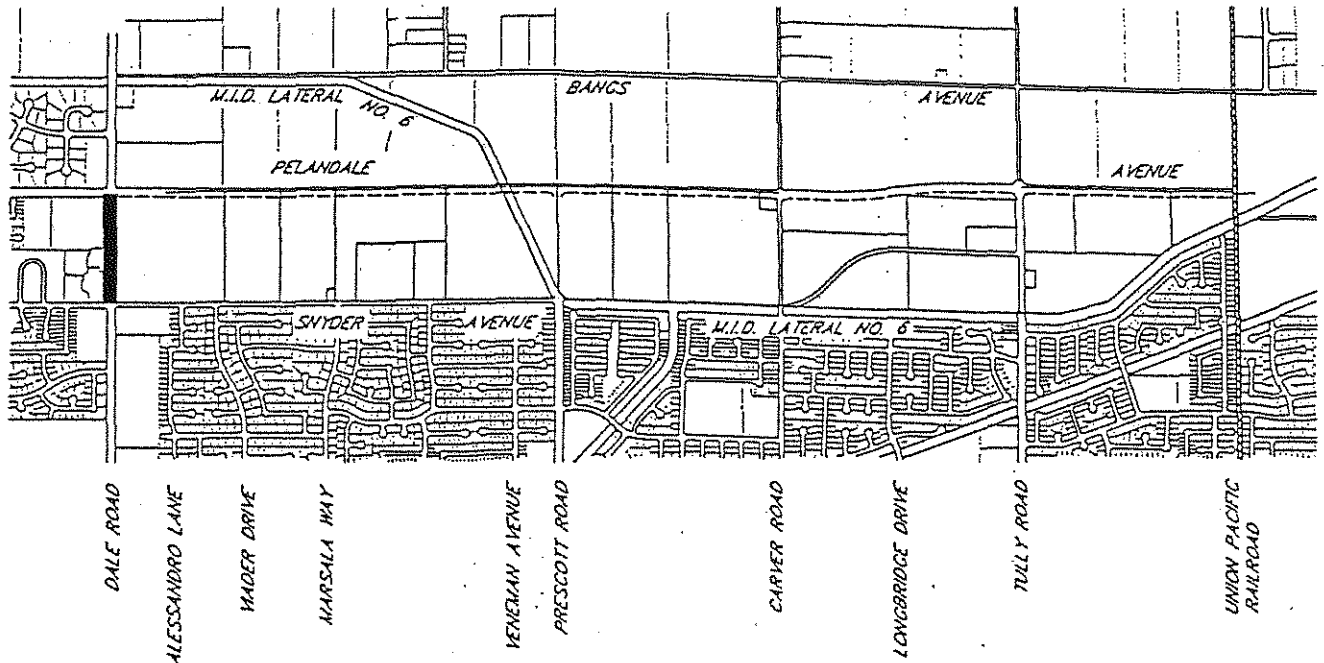
NOTE:

1. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY

DALE ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.R.M.
Date 3-13-98
Scale
Job No. 70-JJ2

FIGURE 2
PELANDALE SNYDER
CFD FORMATION



FAX (209) 526-0803

SHEET

1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD
WEST SIDE FRONTAGE IMPROVEMENTS ADJACENT
TO STORM DRAIN BASIN
AND EAST SIDE FRONTAGE IMPROVEMENTS
PELANDALE AVENUE TO SNYDER AVENUE (1,316' C.L. TO C.L.)
(REFERENCE FIGURE 3)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. <u>PRESCOTT ROAD WEST SIDE FRONTAGE IMPROVEMENTS (ADJACENT TO STORM DRAIN BASINS)</u>					
A. <u>CONSTRUCTION</u>					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	18,525	SF	\$2.00	\$37,050
3.	2" A.C. OVERLAY (EXISTING INTERIM PRESCOTT)	17,100	SF	\$0.60	\$10,260
4.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
5.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
6.	10' SIDEWALK	12,000	SF	\$3.00	\$36,000
7.	RETURNS	2	EA	\$1,000.00	\$2,000
8.	ELECTROLIERS	4	EA	\$3,500.00	\$14,000
9.	PRIMECOAT	18,525	SF	\$0.02	\$371
					CONSTRUCTION TOTAL =====>
					\$139,999
					10% CONTINGENCY =====>
					\$14,000
					TOTAL PRESCOTT ROAD CONSTRUCTION =====>
					\$153,998
B. <u>FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,239.90	\$9,240
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,619.95	\$4,620
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,159.93	\$6,160
					TOTAL FEES =====>
					\$20,020
C. <u>LAND ACQUISITION</u>					
1.	RIGHT-OF-WAY DEDICATION	1.20	AC	\$65,000.00	\$78,000
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
					TOTAL LAND ACQUISITION =====>
					\$80,000
					PRESCOTT ROAD WEST SIDE FRONTAGE TOTAL =====>
					\$254,018

Preliminary Engineer's Estimate
 Community Facilities District
 October 23, 1998

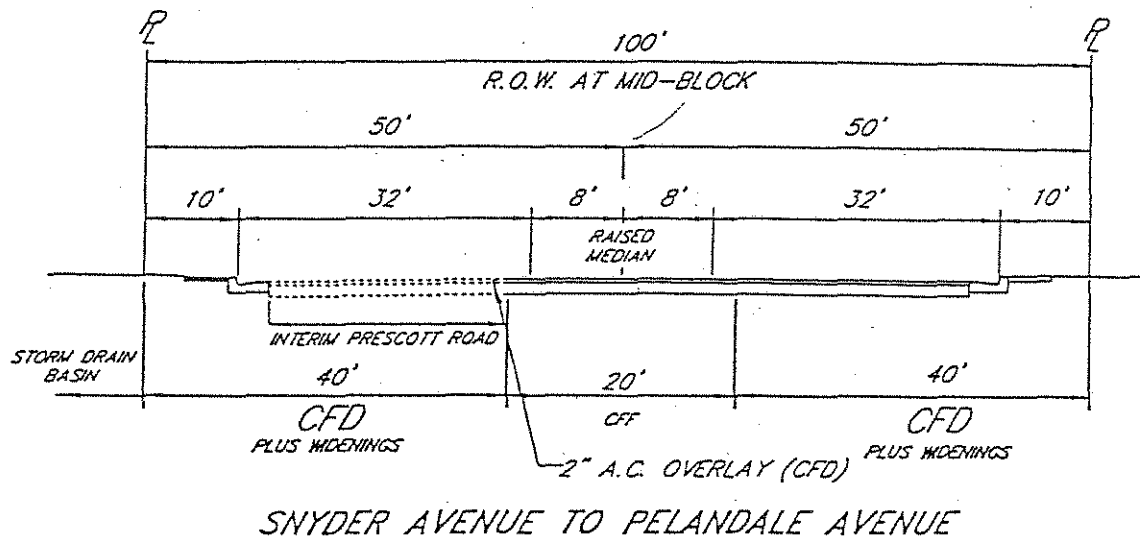
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. PRESCOTT ROAD EAST SIDE FRONTAGE IMPROVEMENTS					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	41,400	SF	\$2.00	\$82,800
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
4.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
5.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,000	SF	\$3.00	\$36,000
6.	RETURNS	4	EA	\$800.00	\$3,200
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,400	SF	\$2.80	\$40,320
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$5,265.90	\$5,266
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$2,500.00	\$2,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,200	LF	\$10.00	\$12,000
12.	PRIMECOAT	41,400	SF	\$0.02	\$828
CONSTRUCTION TOTAL =====>					\$233,732
10% CONTINGENCY =====>					\$23,373
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$257,105
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,426.31	\$15,426
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,713.15	\$7,713
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,284.20	\$10,284
TOTAL FEES =====>					\$33,424
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.25	AC	\$65,000.00	\$81,250
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$83,750
PRESCOTT ROAD EAST SIDE FRONTAGE TOTAL =====>					\$374,279
PRESCOTT ROAD GRAND TOTAL =====>					\$628,297

Pelandale Snyder Specific Plan Area
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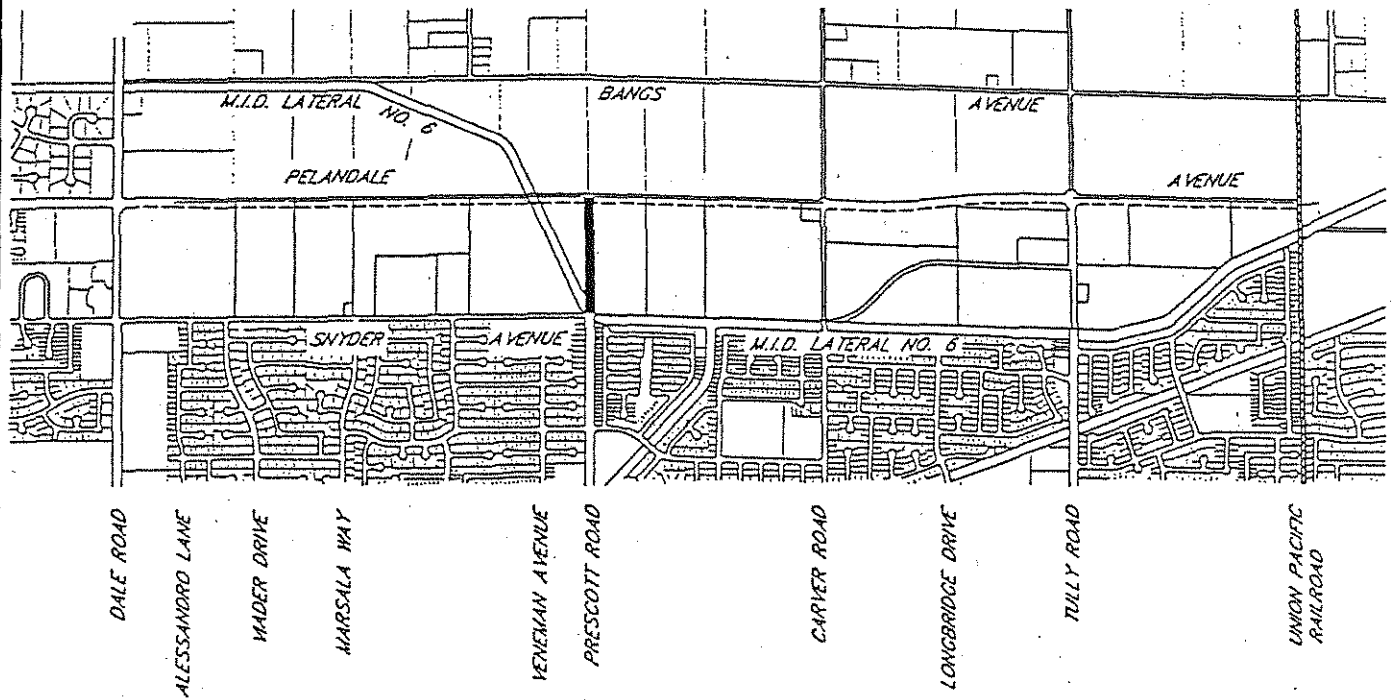
NOTES:

1. THE ABOVE ESTIMATE ASSUMES THE PHASE 1A INTERIM PELANDALE AVENUE WILL BE CONSTRUCTED ON THE WEST SIDE OF PRESCOTT AND A PORTION OF THE IMPROVEMENTS (APPROXIMATELY 650 L.F. FROM THE SNYDER INTERSECTION) WILL BE REMOVED FOR THE ULTIMATE IMPROVEMENTS. THE REMAINING INTERIM SECTION IS ASSUMED TO REMAIN AND BE OVERLAYED WITH 2" A.C.
2. THE ABOVE ESTIMATE DOES NOT INCLUDE THE CENTER 20' PORTION OF PRESCOTT ROAD SINCE IT IS INCLUDED IN THE CFF PROGRAM.
3. THE ABOVE ESTIMATE DOES NOT INCLUDE THE MAINLINE STORM DRAIN IMPROVEMENTS SINCE THOSE COSTS ARE INCLUDED WITH THE STORM DRAIN COMPONENT OF THE CFD.
4. THE ABOVE ESTIMATE INCLUDES ALL NECESSARY CATCH BASINS. THIS CATCH BASIN ESTIMATE WAS TAKEN DIRECTLY FROM THE APPROVED "ALMOND VALLEY SUBDIVISION" IMPROVEMENT PLANS.
5. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD



SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.R.M.
 Date 8-13-98
 Scale
 Job No. 70-332

FIGURE 3
PELANDALE SNYDER



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SHEET 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES)
FROM EXISTING
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
TO PELANDALE AVENUE (1,450' C.L. TO C.L.)
TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF
AND
TULLY / SNYDER TRAFFIC SIGNAL
(REFERENCE FIGURE 4)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES, 114 FOOT RIGHT-OF-WAY)					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	87,245	SF	\$0.60	\$52,347
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	81,410	SF	\$2.00	\$162,820
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" STORM DRAIN	600	LF	\$30.00	\$18,000
c.	12" CATCH BASIN RUNS	200	LF	\$30.00	\$6,000
d.	MANHOLES	3	EA	\$2,000.00	\$6,000
4.	6" VERTICAL CURB AND GUTTER	2,432	LF	\$9.00	\$21,888
5.	10' SIDEWALK	24,320	SF	\$3.00	\$72,960
6.	REMOVE EXISTING CURB, GUTTER AND SIDEWALK ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD	717	LF	\$20.00	\$14,340
7.	CLEARING, GRADING AND DEMOLITION ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD (LANDSCAPING, IRRIGATION, ETC.)	LUMP SUM	LS	\$20,000.00	\$20,000
8.	ELECTROLIERS	9	EA	\$3,500.00	\$31,500
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$10,758.35	\$10,758
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$7,000.00	\$7,000
11.	TRAFFIC SIGNAL INTERCONNECT (ONE SIDE ONLY)	1,400	LF	\$10.00	\$14,000
12.	RELOCATE OVERHEAD POWER LINES	4	EA	\$7,000.00	\$28,000
13.	LANDSCAPING (12' WIDE STRIP BOTH SIDES)	36,996	SF	\$2.80	\$103,589
14.	PRIMECOAT	81,410	SF	\$0.02	\$1,628
CONSTRUCTION TOTAL =====>					\$574,830
15% CONTINGENCY =====>					\$86,225
TOTAL CONSTRUCTION FOR TULLY ROAD FRONTAGE =====>					\$661,055

Pelandale-Snyder Speedo High Area
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$39,663.29	\$39,663
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$19,831.65	\$19,832
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$26,442.20	\$26,442
TOTAL FEES =====>					\$85,937
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.776	AC	\$65,000.00	\$50,440
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$52,440
TOTAL TULLY ROAD FRONTAGE =====>					\$799,432
II. TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF					
A. CONSTRUCTION					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	27,360	SF	\$1.50	\$41,040
2.	MEDIAN CURB	3,090	LF	\$15.00	\$46,350
3.	MEDIAN LANDSCAPING	23,120	SF	\$3.50	\$80,920
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B.; T.I. = 10, R.V. = 50)	27,360	SF	\$2.00	\$54,720
5.	STRIPING	LUMP SUM	LS	\$6,000.00	\$6,000
CONSTRUCTION TOTAL =====>					\$229,030
10% CONTINGENCY =====>					\$22,903
TOTAL CONSTRUCTION FOR TULLY ROAD CENTER 34' FEET =====>					\$251,933
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,115.98	\$15,116
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,557.99	\$7,558
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,077.32	\$10,077
TOTAL FEES =====>					\$32,751
TOTAL TULLY ROAD CENTER 34 FEET =====>					\$284,684
TOTAL AMOUNT FUNDED BY CFF =====>					\$220,000
TOTAL TULLY ROAD (CENTER 34 FEET) FUNDED BY PELANDALE-SNYDER CFD =====>					\$64,684
III. TRAFFIC SIGNAL AT TULLY ROAD AND SNYDER AVENUE					
A. CONSTRUCTION					
1.	TRAFFIC SIGNAL	LUMP SUM	LS	\$130,000.00	\$130,000

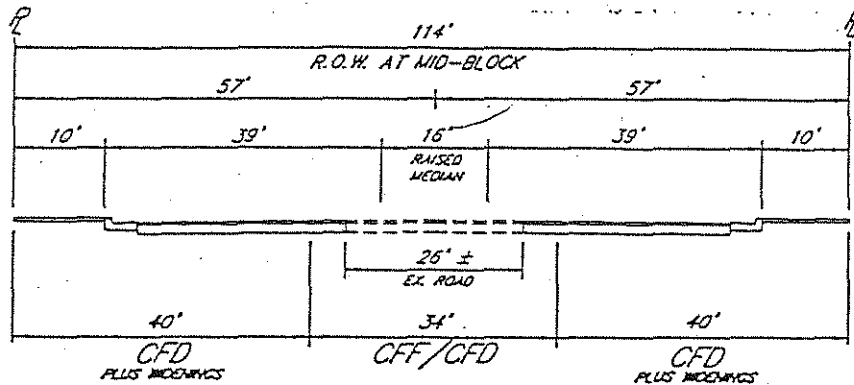
Pelandale-Snyder Specific Plan Area
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$7,800.00	\$7,800
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$3,900.00	\$3,900
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,200.00	\$5,200
				TOTAL FEES =====>	\$16,900
				TOTAL TRAFFIC SIGNAL TULLY AND SNYDER =====>	\$146,900
				TULLY ROAD GRAND TOTAL =====>	\$1,011,016

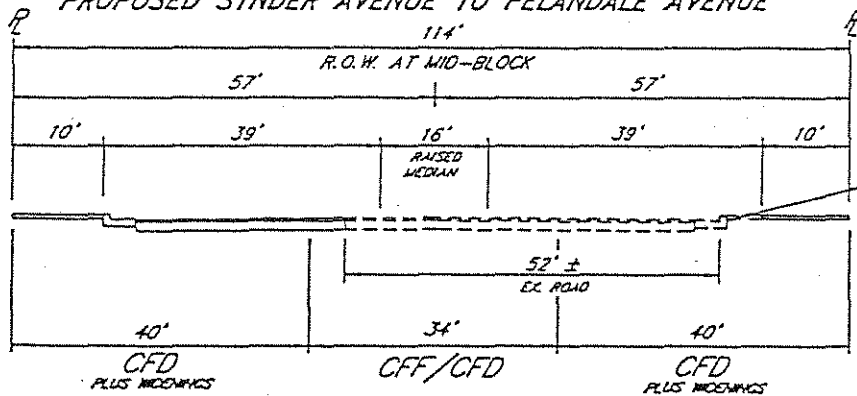
NOTES:

1. THIS ESTIMATE ITEM II IS FOR THE ENTIRE COST OF THE CENTER 34 FEET OF TULLY ROAD IMPROVEMENTS. THE CENTER 34 FEET OF IMPROVEMENTS ON TULLY ROAD ARE FUNDED BY THE CFF PROGRAM, HOWEVER, THE FUNDS ARE NOT AVAILABLE FOR THE ENTIRE PROJECT SO A PORTION OF THE PROJECT NOT FUNDED BY CFF WILL BE FUNDED BY THE PELANDALE-SNYDER CFD.
2. THIS ESTIMATE IS BASED ON THE ASSUMPTION THAT THE CENTER 26+/- FEET OF EXISTING PAVEMENT WILL REMAIN AND ADJACENT DEVELOPMENT WILL BE REQUIRED TO MATCH EXISTING PAVEMENT.
3. THE ABOVE COST ESTIMATE INCLUDES THE COST FOR IMPROVEMENTS FROM THE NORTH SIDE OF THE MODESTO IRRIGATION DISTRICT LATERAL TO PELANDALE AVENUE.
4. THE TULLY ROAD IMPROVEMENTS INCLUDE A COST TO REMOVE AND REPLACE THE EXISTING IMPROVEMENTS ALONG THE BIG VALLEY GRACE COMMUNITY CHURCH FRONTAGE (50' EXISTING TO 57' CITY STANDARD) TO BRING THE CROSS SECTION TO CITY STANDARD. HOWEVER, SPECIFIC DECELERATION OR ACCELERATION LANES WHICH ARE SITE SPECIFIC IMPROVEMENTS ARE NOT INCLUDED IN THE ESTIMATE.
5. THE RIGHT-OF-WAY COSTS ARE THE REQUIRED DEDICATIONS FOR RIGHT-OF-WAY BEYOND THE ALREADY EXISTING DEDICATIONS.
6. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

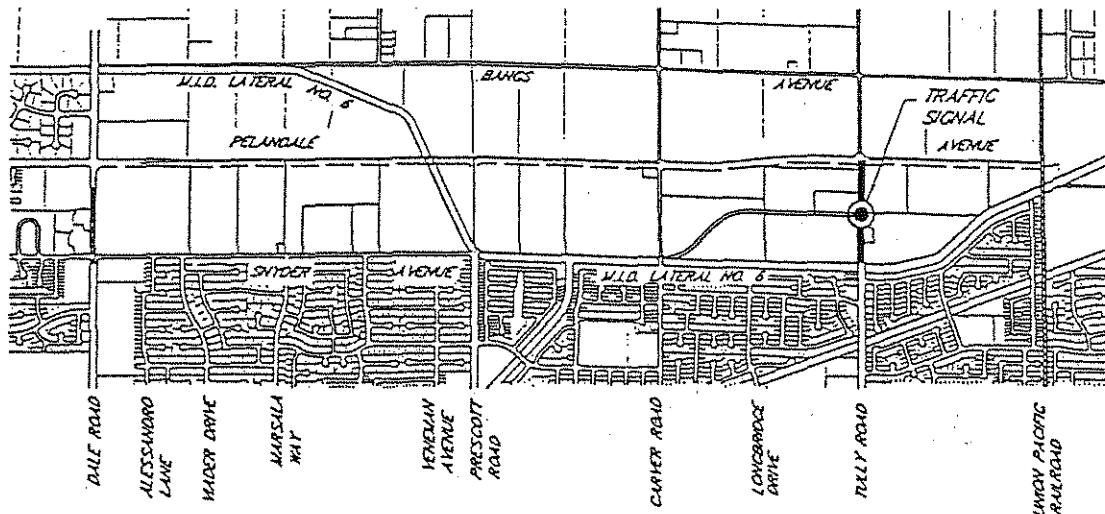
TULLY ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
 PROPOSED SNYDER AVENUE TO PELANDE AVE



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
 M.I.D. LATERAL NO. 6 TO PROPOSED SNYDER AVENUE



Drawn J.R.M.
 Date 9-13-98
 Scale
 Job No. 70-332

FIGURE 4
 PELANDE SNYDER
 CFD FORMATION



FAX (209)
 526-0803

SHEET
 1

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
SNYDER AVENUE
NORTH SIDE ADJACENT TO STORM DRAIN BASIN,
WEST OF PRESCOTT ROAD (352'), SOUTH SIDE
ADJACENT TO BIKE TRAIL FROM
PRESCOTT ROAD TO CARVER ROAD (2,639' C.L. TO C.L.)
(REFERENCE FIGURES 5, 5A, 5B, AND 5C)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	4,960	SF	\$0.35	\$1,736
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B., T.I. = 8 R.V. = 46)	4,085	SF	\$2.00	\$8,170
3.	6" VERTICAL CURB AND GUTTER	352	LF	\$9.00	\$3,168
4.	5' SIDEWALK	1,760	SF	\$3.00	\$5,280
5.	STORM DRAINAGE				
a.	12" STORM DRAIN	265	LF	\$30.00	\$7,950
b.	CATCH BASIN	1	EA	\$1,000.00	\$1,000
c.	STORM MANHOLE	1	EA	\$2,500.00	\$2,500
6.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$495.30	\$495
7.	TRAFFIC CONTROL	LUMP SUM	LS	\$1,000.00	\$1,000
8.	IRRIGATION REMOVAL	316	LF	\$10.00	\$3,160
CONSTRUCTION TOTAL =====>					\$34,459
10% CONTINGENCY =====>					\$3,446
TOTAL SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN CONSTRUCTION =====>					\$37,905
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,274.31	\$2,274
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,137.16	\$1,137
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,516.21	\$1,516
TOTAL FEES =====>					\$4,928
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.11	AC	\$65,000.00	\$7,410
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$9,910
SNYDER AVENUE ADJACENT TO THE STORM DRAIN BASIN TOTAL =====>					\$52,743

Polandale-Snyder Specific Plan Area
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	51,575	SF	\$0.35	\$18,051
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B.; T.I. = 8, R.V. = 48)	47,020	SF	\$2.00	\$94,040
3.	PAVEMENT REMOVAL	59,730	SF	\$1.50	\$89,595
4.	6" VERTICAL CURB AND GUTTER	2,538	LF	\$9.00	\$22,842
5.	STORM DRAINAGE				
a.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	250	LF	\$30.00	\$7,500
b.	CATCH BASINS	5	EA	\$1,000.00	\$5,000
c.	STORM MANHOLE	5	EA	\$2,500.00	\$12,500
6.	ELECTROLIERS (660' INTERVALS)	4	EA	\$3,500.00	\$14,000
7.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$5,604.56	\$5,605
8.	TRAFFIC CONTROL	LUMP SUM	LS	\$5,000.00	\$5,000
9.	ABANDON EXISTING PUMP STATION NO. 47	LUMP SUM	LS	\$4,500.00	\$4,500
CONSTRUCTION TOTAL =====>					\$278,633
10% CONTINGENCY =====>					\$27,863
TOTAL SNYDER AVENUE ADJACENT TO BIKE TRAIL CONSTRUCTION =====>					\$306,496
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$18,389.77	\$18,390
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$9,194.88	\$9,195
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$12,259.84	\$12,260
TOTAL FEES =====>					\$39,844
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.58	AC	\$65,000.00	\$102,700
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$105,200
SNYDER AVENUE ADJACENT TO THE BIKE TRAIL TOTAL =====>					\$451,541
SNYDER AVENUE GRAND TOTAL =====>					\$504,283

NOTES:

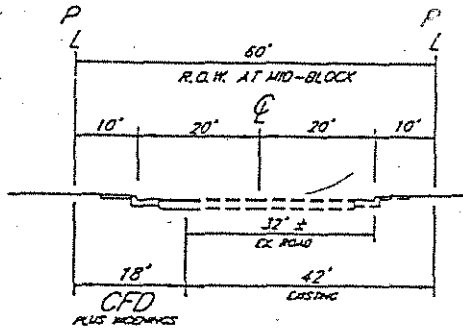
A. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN

1. THE SNYDER AVENUE IMPROVEMENTS ADJACENT TO THE STORM DRAINAGE BASIN, INCLUDE THE COST FOR IMPROVEMENT FROM THE WEST SIDE OF THE PROPOSED BASIN PROPERTY TO THE RETURN AT PRESCOTT ROAD.
2. THE RIGHT-OF-WAY COSTS IS THE AREA OF DEDICATION REQUIRED ASSUMING AN EXISTING 20 FOOT DEDICATION ON THE NORTH SIDE OF SNYDER AVENUE.

B. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL

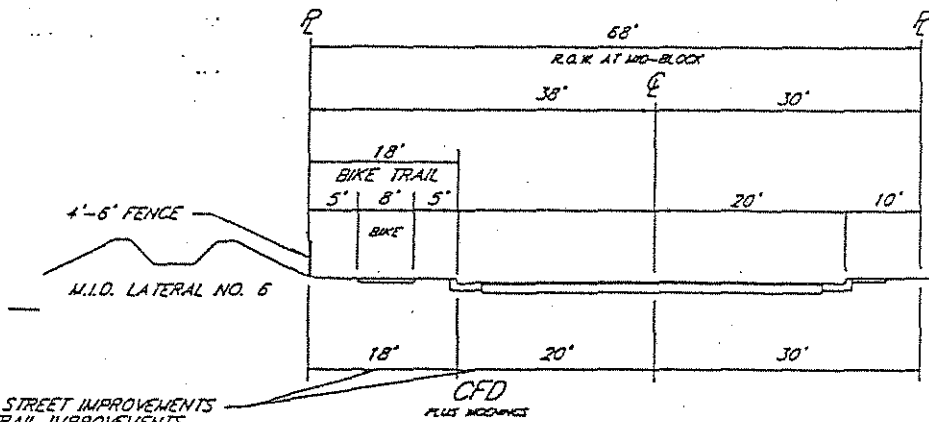
1. THE SNYDER AVENUE IMPROVEMENTS INCLUDE THE COSTS FOR ROADWAY IMPROVEMENTS (EXCLUDING BIKE TRAIL) SOUTH OF THE CENTERLINE (20') FROM PRESCOTT ROAD TO CARVER ROAD.
2. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
3. NO "MAINLINE" STORM DRAIN IMPROVEMENTS ARE INCLUDED SINCE THOSE COSTS ARE INCLUDED WITHIN THE STORM DRAIN COMPONENT OF THE C.F.D.
4. NO COSTS ARE INCLUDED IN THIS ESTIMATE FOR THE CLASS I BIKE TRAIL ADJACENT TO SNYDER AVENUE.
5. THE PAVEMENT REMOVAL QUANTITIES INCLUDES THE COST TO REMOVE THE ENTIRE EXISTING PAVEMENT SECTION FROM PRESCOTT ROAD TO CARVER ROAD.
6. THIS ESTIMATE INCLUDES A COST TO ABANDON EXISTING STORM DRAIN PUMP STATION NO. 47 ASSUMING CONNECTION TO THE POSITIVE STORM DRAIN SYSTEM.
7. NO COST FOR EXISTING POWER POLE RELOCATION IS INCLUDED IN COSTS.
8. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

SNYDER AVENUE



SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN (SEC. A)

NOTES: 1) MATCH EXISTING PAVEMENT PER CITY STANDARDS

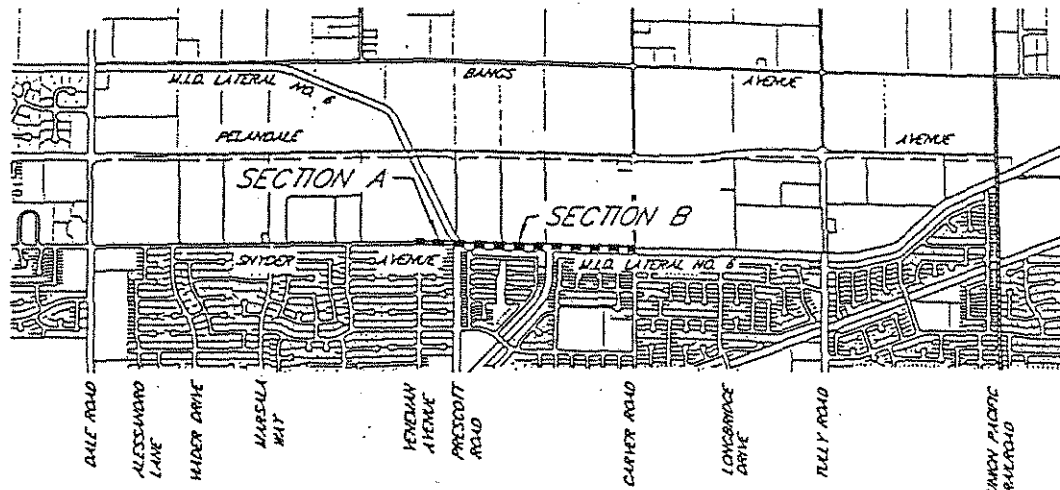


PROPOSED STREET IMPROVEMENTS AND BIKE TRAIL IMPROVEMENTS INCLUDED WITHIN CFD (REFER TO BIKE TRAIL SECTION FOR BIKE TRAIL COSTS AND IMPROVEMENTS)

CARVER ROAD TO PRESCOTT ROAD (SEC. B)

NOTES:

1. REFER TO FIGURE 5A FOR A DETAILED CROSS SECTION OF THE PROPOSED NEW SNYDER ALIGNMENT
2. REFER TO FIGURE 5B FOR RIGHT-OF-WAY TAKE SUMMARY
3. REFER TO FIGURE 5C FOR PRESCOTT SNYDER INTERSECTION DETAIL



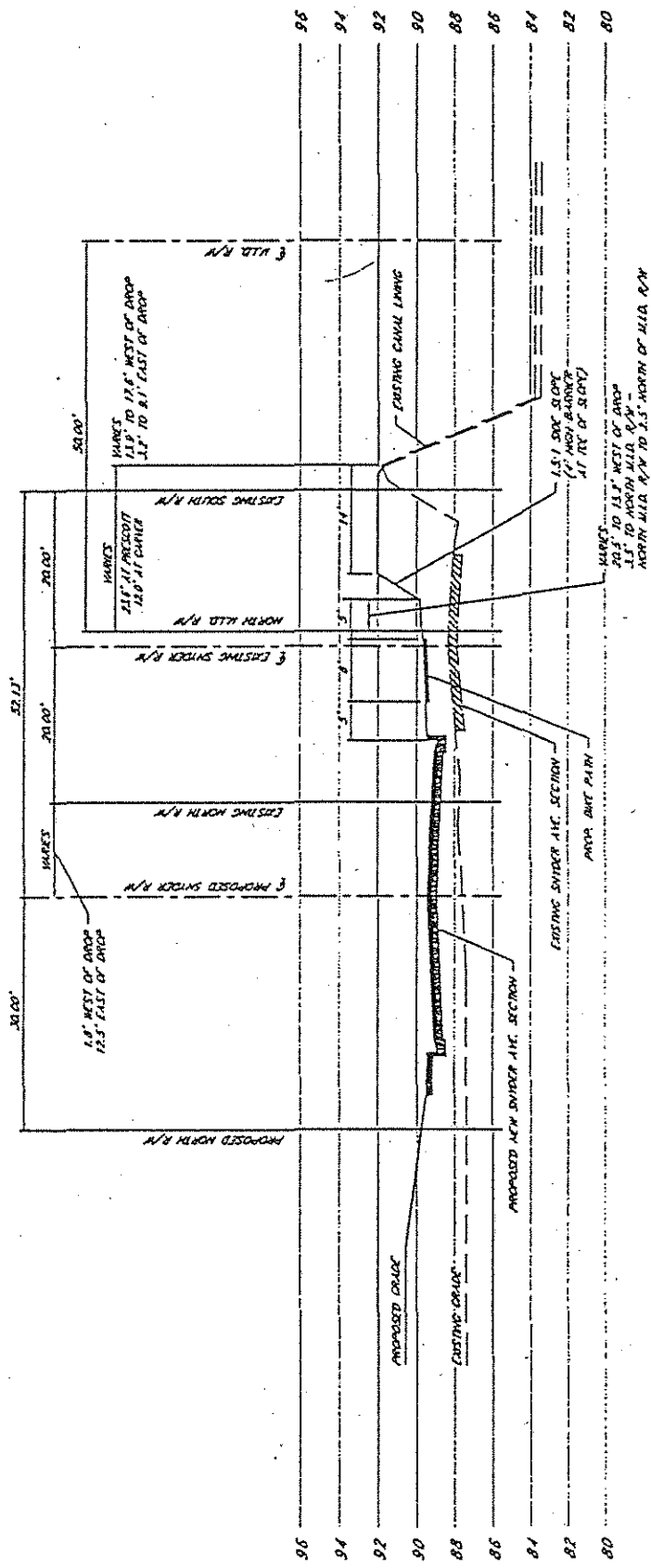
Drawn J.R.M.
 Date 9-13-98
 Scale
 Job No. 70-332

FIGURE 5
 PELANDALE SNYDER



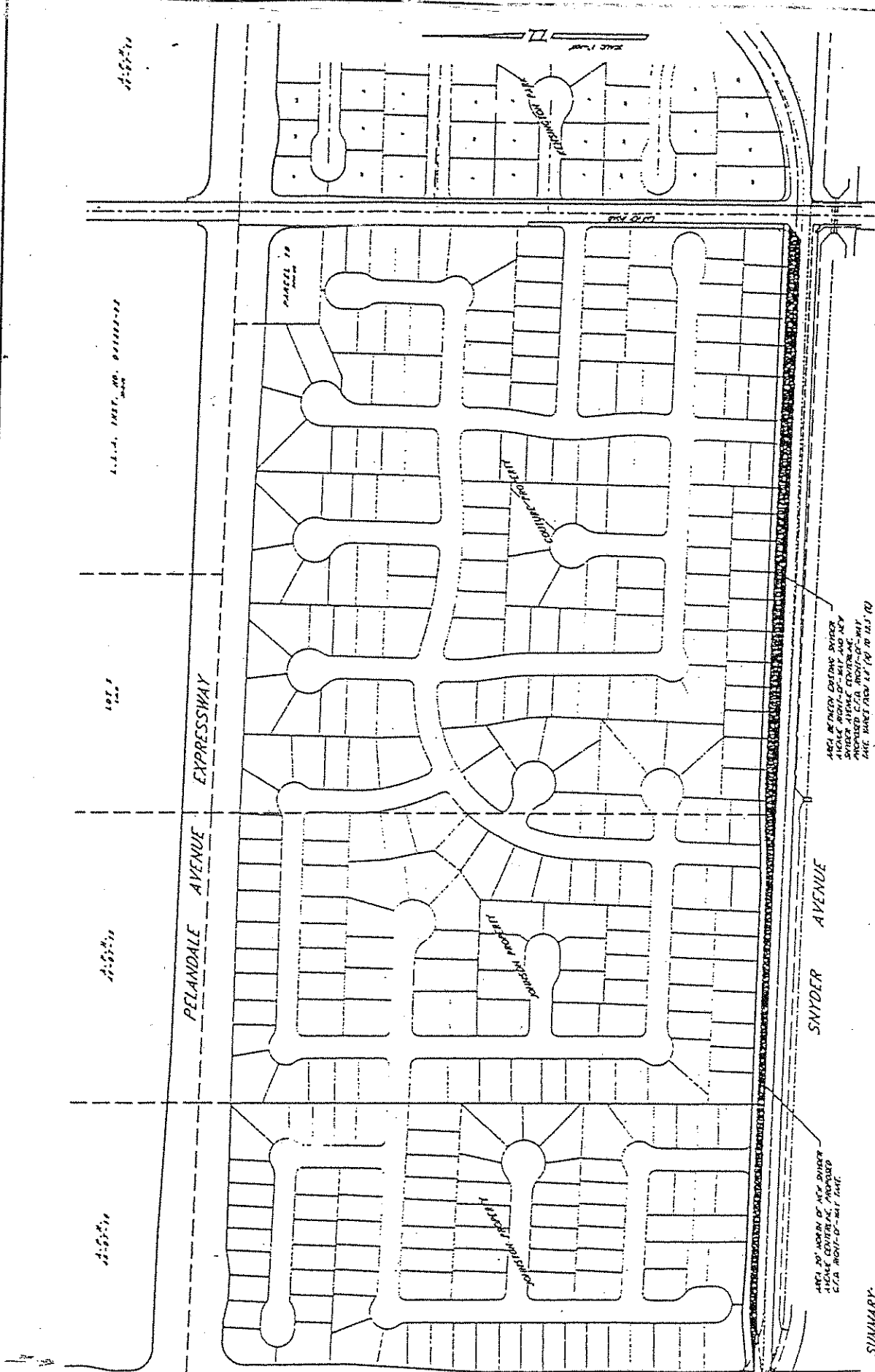
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SHEET
 1



TYPICAL SECTION ALONG THE M.I.A. RIGHT-OF-WAY
 BETWEEN
 PRESCOTT ROAD AND CARVER ROAD
PROPOSED SNYDER AVENUE

FIGURE 5A



Sheet No.	1
Scale	1" = 40'
Date	11/11/11
Project No.	111111
Client	111111
City	111111
County	111111
State	111111

C.F.D. RIGHT-OF-WAY TAKE
 SNYDER AVENUE
 ALBERTA, CALIFORNIA

mid-valley engineering
 LAND PLANNING & ENGINEERING SURVEYING
 800 N. STREET, SUITE 6, MESA, ALBERTA, CANADA, T6B 5K4
 (403) 434-1111
 (403) 434-0000

SUMMARY:
 TOTAL AREA OF C.F.D. RIGHT-OF-WAY TAKE: 60,857 S.F.
 - JOHNSON PROPERTY (A.P.N. 48-07-17) RIGHT-OF-WAY TAKE: 11,816 S.F.
 - JOHNSON PROPERTY (A.P.N. 48-07-17) RIGHT-OF-WAY TAKE: 14,843 S.F.
 - CANTON PROPERTY (A.P.N. 48-07-17) RIGHT-OF-WAY TAKE: 42,198 S.F.

AREA BETWEEN CENTER DIVORCE AVENUE RIGHT-OF-WAY AND NEW SNYDER AVENUE CENTERLINE. THIS AREA IS TO BE RIGHT-OF-WAY TAKE. PARCELS 10 & 11 TO BE 10'.

AREA OF JOHNSON PROPERTY (A.P.N. 48-07-17) RIGHT-OF-WAY TAKE. THIS AREA IS TO BE RIGHT-OF-WAY TAKE.

4:5:57

U.S.A. INT. NO. 011111-11

1027

4:5:57

4:5:57

PELANDALE AVENUE EXPRESSWAY

SNYDER AVENUE

PARCEL 10

PARCEL 11

PARCEL 12

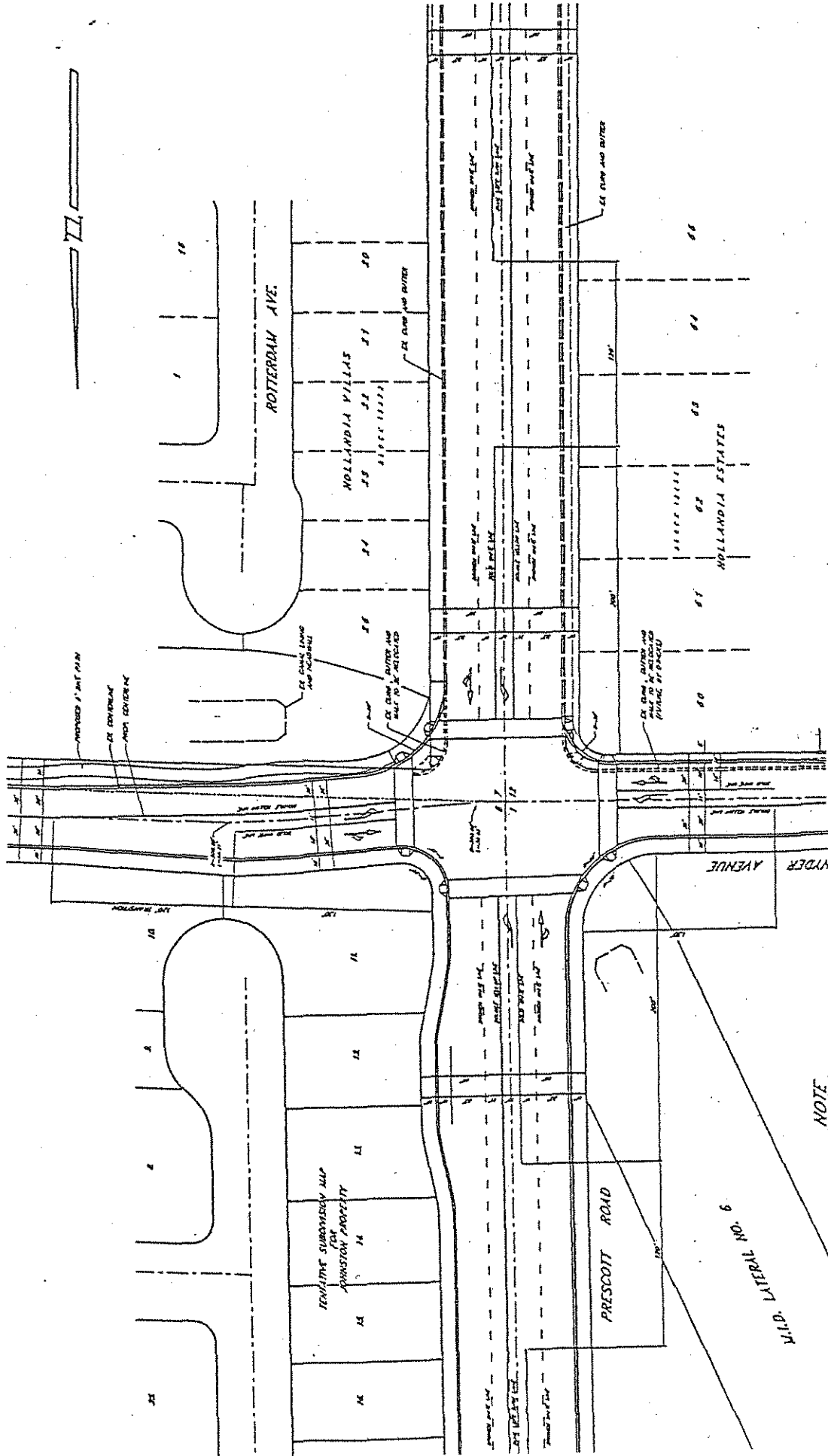
PARCEL 13

SCALE BAR

NORTH ARROW

PROJECT NO.

PRELIMINARY SNYDER / PRESCOTT INTERSECTION LAYOUT



NOTE
INTERSECTION DESIGN AS PER THE CITY OF LOS ANGELES STANDARDS - DETAIL NO. J01



LAND PLANNING
ENGINEERING
&
SURVEYING
(CAL) 158-1111
(FAX) 158-1000

PROJECT ADDRESS: **LOS ANGELES**
CLIENT: **PELANDALE SNYDER CFD FORMATION**
DESIGNER: **CLAYTON**

DATE	1/1/01
BY	J. J.
CHECKED	J. J.
SCALE	AS SHOWN
SHEET NO.	1
TOTAL SHEETS	1
PROJECT NO.	

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BIKE TRAIL SYSTEM
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 18' BIKE TRAIL SYSTEM (8' PATH, 10' LANDSCAPING, AND 4-6' FENCE) ALONG SNYDER AVENUE FROM PRESCOTT ROAD TO CARVER ROAD.				
2.	INSTALL 25' BIKE TRAIL SYSTEM (8' PATH, 17' LANDSCAPING, AND 4-6' FENCE) ALONG MODESTO IRRIGATION DISTRICT LATERAL NO. 6 FROM CARVER ROAD TO THE UNION PACIFIC RAILROAD.				
3.	TOTAL LENGTH 8276 L.F. OR 1.567 MILES				
	EXISTING CFF PORTION	1.567	MILES	\$105,600.00	\$165,475
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH WITH 2' GRAVEL SHOULDER (8,276 L.F. x 8')	66,208	SF	\$2.00	\$132,416
2.	4'-6' FENCE	8,276	LF	\$16.00	\$132,416
3.	LANDSCAPING (6' AREA FROM PRESCOTT TO CARVER (2,770 L.F.); 13' AREA FROM CARVER TO UNION PACIFIC RAILROAD (5,506 L.F.))	88,198	SF	\$2.80	\$246,954
	CONSTRUCTION TOTAL =====>				\$511,786
	10% CONTINGENCY =====>				\$51,179
	TOTAL BIKE PATH =====>				\$562,965
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$33,777.90	\$33,778
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$16,888.95	\$16,889
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$22,518.60	\$22,519
	TOTAL FEES =====>				\$73,185

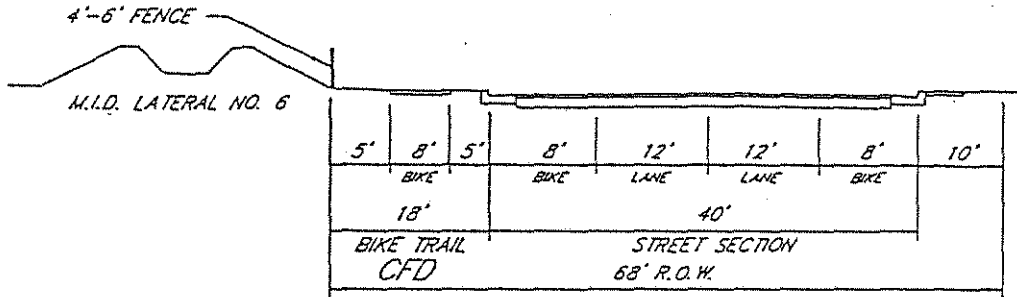
Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	4.30	AC	\$65,000.00	\$279,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$282,000
BIKE PATH GRAND TOTAL =====>					\$918,150
CFF PORTION TOTAL =====>					\$165,475
TOTAL PELANDALE-SNYDER CFD PORTION =====>					\$752,675

NOTES:

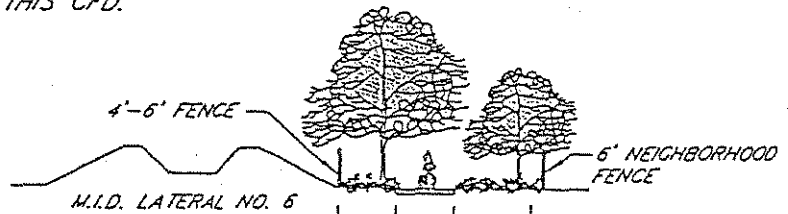
1. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
2. THIS ESTIMATE DOES NOT INCLUDE ANY COSTS ASSOCIATED WITH THE SNYDER AVENUE ROAD IMPROVEMENTS.

BIKE TRAIL



BIKE TRAIL ALONG SNYDER AVENUE

NOTE: SEE SNYDER AVENUE CROSS-SECTIONS FIGURE 5A FOR RIGHT-OF-WAY AND STREET IMPROVEMENTS INCLUDED WITHIN THIS CFD.

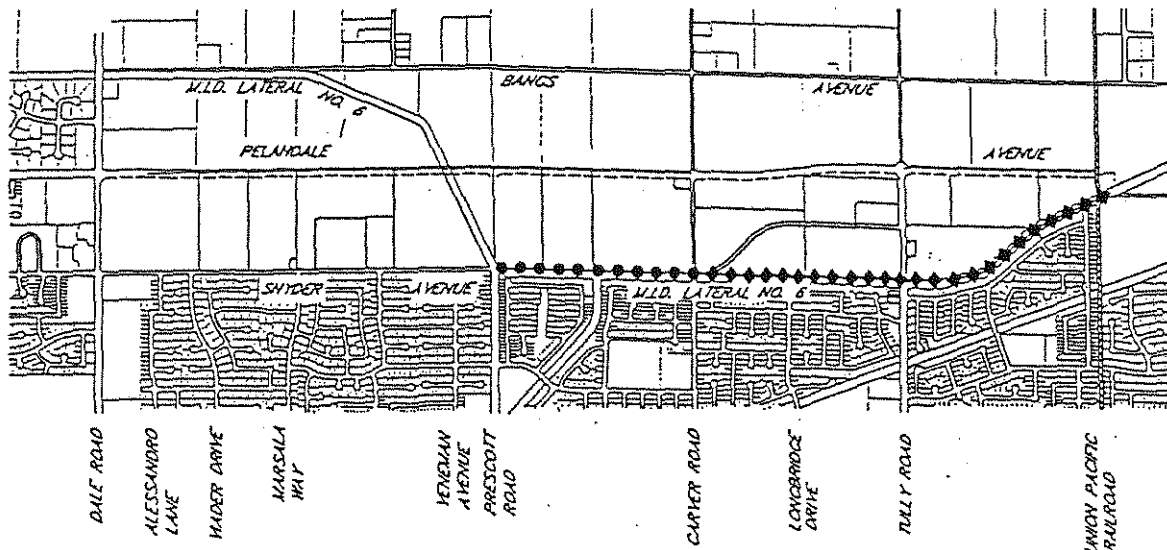


LEGEND

IMPROVEMENTS:

- = BIKE TRAIL ALONG SNYDER AVENUE
- ◆◆◆◆◆ = BIKE TRAIL ALONG M.I.D. LATERAL

BIKE TRAIL ALONG M.I.D. LATERAL



Drawn J.R.M.

Date 8-13-98

Scale

FIGURE 6
PELANDALE SNYDER



FAX (209) 526-0803

SHEET

1

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-193**

A RESOLUTION CERTIFYING AN ADDENDUM TO THE PELANDALE-SNYDER PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 93042004) FOR ANNEXATION #2 TO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER)

WHEREAS, on January 16, 1996, the Modesto City Council has adopted Resolution No. 96-22 certifying that the Final Pelandale-Snyder Specific Plan Area Environmental Impact Report (“EIR”) (State Clearinghouse No. 93042004) was complete and adequate pursuant to Section 15090 of the California Environmental Quality Act (“CEQA”) Guidelines, and

WHEREAS, the City Council is proposing to annex 19.37 acres located at the southwest corner of Snyder avenue and Tully Road (“Property”) to the Carver-Bangs/Pelandale-Snyder CFD No. 1998-2 (“CB-PS CFD”) as a condition of developing a residential subdivision consisting of 81 single family lots, and

WHEREAS, the EIR contemplated that the Property could develop with approximately 67 single family lots and 174 multi-family residences, and

WHEREAS, Section 15164 of the CEQA Guidelines provides that a lead agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR have occurred, and

WHEREAS, the City’s consultant, Impact Sciences, prepared an Initial Study/Addendum (Environmental Assessment No. EA/CM 2003-1) which reviewed the proposed Annexation #2 to the CB-PS CFD and concluded that some minor changes or additions to the EIR were necessary as a result of the changes in the proposed development of the Property and none of the conditions described in section 15162 of the

CEQA Guidelines calling for the preparation of a subsequent EIR or Negative

Declaration have occurred, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on Tuesday, April 8, 2003 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 Environmental Assessment No. EA/CDD 2003-01, entitled "City of Modesto Initial Study/Addendum to the 1996 Program EIR for the Pelandale Snyder Specific Plan (SCH No. 93042004)," for the proposed project, and the Council hereby makes the following findings:

- A. The environmental checklist completed for the project found that a Subsequent EIR is not required because the environmental effects of Annexation No. 2 to the Carver-Bangs/Pelandale Snyder CFD No. 1998-2 were addressed by the Pelandale-Snyder Specific Plan EIR (SCH No. 93042004).
- B. There are no substantial changes proposed in the project that will require major revisions of the Pelandale-Snyder Specific Plan Area EIR (SCH No. 93042004).
- C. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Pelandale-Snyder Specific Plan Area EIR.
- D. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Pelandale-Snyder Specific Plan Area EIR was certified, that has become available, and shows the project would have new or increased significant impacts.
- E. There is no new information of substantial importance, which was not known or could not have been known with the exercise of reasonable diligence at the time the Pelandale-Snyder Specific Plan EIR was certified, that has become available and shows that previously infeasible mitigation measures or alternatives are now feasible, or that new, different or additional mitigation measures or alternatives are required.
- F. The Initial Study/Addendum prepared by Impact Sciences provides substantial evidence to support findings A, B, C, D and E above.

A copy of said Environmental Assessment No. EA/CDD 2003-01, entitled "City of Modesto Initial Study/Addendum to the 1996 Program EIR for the Pelandale Snyder Specific Plan (SCH No. 93042004)," 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 8th day of April, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**CITY OF MODESTO
INITIAL STUDY/ADDENDUM TO THE 1996 PROGRAM EIR**

FOR THE PELANDALE SNYDER SPECIFIC PLAN (SCH # 93042004)

EA/CM No. 2003-01

1. Project Title

Annexation No. 2 to Carver-Bangs/Pelandale Snyder CFD No. 1998-2

2. Lead Agency

City of Modesto, Community Facilities District
PO Box 642
Modesto, CA 95353
ATTN: Tina Rocha
(209) 577-5321

3. Project Sponsor

City of Modesto, Community Facilities District
PO Box 642
Modesto, CA 95353

4. Preparers of the Addendum

Impact Sciences
One Kaiser Plaza, Suite 1520
Oakland, CA 94612
Attn: Kerrie Nicholson
(510) 267-0494 ext. 22

5. Project Location

The proposed project site is located in the City of Modesto, at the southwest corner of Snyder Avenue and Tully Road.

6. **General Plan Designations**

The Modesto *General Plan* has designated the project site as Village Residential.

7. **Zoning**

The project site is located in a Specific Plan-Overlay (SP-O) Zone; the underlying zoning is R-1 Low Density Residential and R-3 Medium High Density Residential.

8. **Applicable Planning Programs**

City of Modesto Urban Area General Plan

The project site is located within the north central portion of the City's General Plan Boundary in the Planned Urbanizing Area.

Pelandale/Snyder Specific Plan (PSSP)

The project site is located in the PSSP area, within the City limits. The 408-acre area is bounded by Dale Road on the west, the extension of Pelandale Avenue on the north, the Union Pacific Railroad on the east, and the Modesto Irrigation District (MID) Canal and Snyder Avenue on the south.

9. **Existing On-site Land Uses**

The project site is predominately used as an almond orchard. One single-family home is located at the southeastern corner of the site.

10. **Nearby Land Uses**

The project site is bounded by Snyder Avenue to the north, Tully Road to the east, MID Lateral No. 6 (canal) to the south, and a single-family residential development to the west. Land uses in proximity to the site include single-family residential to the north and west, commercial and single-family residential to the east, and multi-family residential to the south.

11. **Description of the Project**

The proposed project includes annexation of the 19.37-acre site (APN 46-07-08) to the Community Facilities District (CFD) 1998-2. Annexation of the property into the CFD would provide a funding and reimbursement mechanism for public facilities and

services required to serve development within the Carver Bangs/Pelandale Snyder Specific Plan area, including the project site. A summary of the Capital Improvement Projects (CIP) in the Carver Bangs/Pelandale Snyder Specific Plan area is provided below.

CIP Projects

- Storm drainage basins and pump station on Prescott between Pelandale and Snyder;
- Prescott Road Improvements from Bangs to Snyder;
- Landscaping along the east side of Dale between Pelandale and Snyder;
- Snyder Avenue between Prescott and Carver;
- Tully Road frontage improvements from Pelandale to MID Lat. #6;
- Tully Road (center 34 feet) between MID Lat. #6 to Pelandale;
- Traffic signal at Tully and Snyder;
- Bangs Avenue – American to Carver
- MID canal crossing at the intersection of American and Bangs;
- American Avenue from Pelandale to Bangs;
- Bike trail and pedestrian crossing of MID Lat. #6; and
- Bike trail system.

(Please note: Future development of the site, in compliance with the PSSP, could potentially include clearing the site of the existing almond orchard to allow for approximately 67 single-family units and 174 multi-family units. However, the Application for Annexation to a CFD filed with the City indicates that the property owners intend to subdivide 16.32 acres of the site into 81 single-family lots. The existing single-family home would remain on its 3.05-acre site. In addition, the property owners have filed a separate application with the Modesto Community & Economic Development Department for subdivision and development of the project site. The City of Modesto prepared an Initial Study for the Covington Pointe Vesting Tentative Subdivision Map project on November 25, 2002 to address the potential impacts related to development of the site. The project applicant(s) has been granted a development entitlement for development of the site.)

12.

Purpose

On January 16, 1996, the Modesto City Council certified the Final EIR for the PSSP. The Final EIR analyzed the impacts of build-out of the PSSP, which includes the area in which this project is proposed. Section 15164 of the CEQA *Guidelines* states that an addendum to a previously certified EIR can be prepared if none of the following conditions, as described in Section 15162, have occurred:

- A. Substantial changes are proposed in the project that will require major revisions to the 1995 PSSP EIR (due to the involvement of new significant environmental impacts or substantial increases in the severity of previously identified significant impacts);
- B. Substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the 1995 PSSP EIR (due to the involvement of new or increased significant impacts); or
- C. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 1995 PSSP EIR, has become available, and shows that the project would have new or increased significant impacts.

EVALUATION OF ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. AGRICULTURAL RESOURCES - In determining whether impacts to 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 Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts to agricultural lands on pages 37 through 41 of the EIR and identifies the project site and surrounding areas as Prime Farmland. The EIR concludes that the conversion of this farmland to urban uses would constitute a significant unavoidable impact. The City subsequently made the required findings under Section 21081 of the CEQA <i>Guidelines</i> and adopted a Statement of Overriding Considerations for this impact. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to conversion of agriculture associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR identifies the project site as a residential land use. The project site is not under Williamson Act contract. ¹ No further discussion is necessary.				
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The property immediately surrounding the project site is already developed. No further discussion is needed.				

¹ Rocha, Tina, City of Modesto Community Facilities District, March 13, 2003.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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2. AIR QUALITY - Where 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. <i>Would the project:</i>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts to air quality on pages 110 through 126 of the EIR and concludes that short-term construction impacts would be less than significant. Also, the 1995 PSSP EIR concludes that buildout of the PSSP would result in significant air quality impacts related to long-term regional emissions, residential wood burning emissions, and microscale projections. All of these impacts could be mitigated to a less-than-significant level. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to conflicts with or obstruct implementation of the applicable air quality plan associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 2a.				
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR concludes that cumulative air quality impacts would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to cumulative air quality associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 2a.				
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects, the impacts of which have already been addressed in the Facilities Master Plan EIR. Annexation of the project site would not create objectionable odors affecting a substantial number of people. No further discussion is necessary.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Impacts to biological resources are addressed on pages 127 through 129 of the 1995 PSSP EIR. The EIR concludes that impacts would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to having 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 associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to having a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
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, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
No wetlands are located on the project site. No further discussion is necessary.				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Thus, impacts related to a substantial interference 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 associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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No current habitat conservation plans or natural community conservation plans apply to the PSSP. No further discussion is necessary.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. CULTURAL RESOURCES - Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts to cultural resources on page 130 of the EIR and concludes that buildout of the PSSP may potentially result in the destruction of unknown subsurface archeological resource" and prescribes mitigation to reduce the impact to a less-than-significant level. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to cultural resources associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 4a.				
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The PSSP area does not contain any paleontological resources or unique geologic features.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 4a.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. GEOLOGICAL PROBLEMS - Would the project				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts related to geologic hazards on pages 143 through 144 of the EIR and concludes that the PSSP area is not subject to geologic hazards, including seismic hazards or soils unsuitable for building. No active faults are known to exist in the City of Modesto. No further discussion is necessary.				
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 5ai. The proposed project is a financing mechanism to fund off-site infrastructure projects, the impacts of which have already been addressed in the 1995 PSSP EIR. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to geological problems associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 5ii.				
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The PSSP area is flat and therefore is not susceptible to landslides.				
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to soil erosion or loss of topsoil associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
See answers to 5aiii and 5aiv.				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to expansive soils associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project is a financing mechanism to fund off-site infrastructure projects, the impacts of which have already been addressed in the 1995 PSSP EIR. Annexation of the project site does not include use of septic tanks. Thus, no further discussion is necessary.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. HYDROLOGY AND WATER QUALITY- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts to hydrology and water quality on pages 137 through 142 of the EIR and concludes that impacts related to the degradation of groundwater and surface water quality would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to violation of any water quality standards or waste discharge requirements associated with annexation of the site are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be 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 which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The 1995 PSSP EIR addresses impacts related to reduction in groundwater recharge and concludes that impacts would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to depletion of groundwater supplies associated with annexation of the site are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

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 which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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See answer to 6a.

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 which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to flooding associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

e) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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See response to 6a and 6d.

f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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See response to 6a.

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The proposed project does not include development of housing. Also, the PSSP area is not within a 100-year flood hazard area.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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See response 6g.

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Don Pedro Dam is located 40 miles away from the PSSP area. The water level in the canals in the PSSP area are controlled by a spill wall, which prevents the canal from overflowing. Thus, impacts related to flooding hazards are less than significant.

j) Inundation by seiche, tsunami, or mudflow?

The PSSP area is not located near any large bodies of water and is not subject to seiches, tsunamis, or mudflows. No further discussion is necessary.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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7. NOISE - Would the proposal result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

The 1995 PSSP EIR addresses impacts related to noise on pages 95 through 109 of the EIR, concludes that impacts related to construction noise would be significant, and prescribes mitigation that would reduce impacts to a less-than-significant level. The EIR also concludes that impacts related to project impacts on surrounding land uses and exposure of project land uses to traffic noise would be less than significant

The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Annexation of the project site would not generate any excessive groundborne vibration or groundborne noise levels. No further discussion is necessary.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

The 1995 PSSP EIR concludes that noise created by project-generated traffic would not affect surrounding land uses. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to substantial permanent increases in ambient noise levels associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

See response to 7a.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The PSSP area is not located within an airport land use plan or near an airport. No further discussion is necessary.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The PSSP area is not within the vicinity of a private airstrip. No further discussion is necessary.

8. POPULATION & HOUSING - Would the proposal:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP that would serve growth planned for in the PSSP and in the City's *General Plan*.

The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Annexation of Thus, no further discussion is necessary.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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As stated in the project description, the owners of the project site do not intend to demolish the single-family home currently located on the site. Thus, the project would not result in the displacement of any homes. No further discussion is necessary.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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See response to 12b.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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9. PUBLIC SERVICES				
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a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 public services:				
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i) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR addresses impacts to fire protection service on pages 132 through 133 of the EIR and concludes that buildout of the PSSP would require the construction of an additional fire station and the employment of additional staff to accommodate increased demands for emergency and fire protection services. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The project would not contribute to the need for fire protection service. Thus, no further discussion is necessary.

ii) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR addresses impacts to police service on page 133 of the EIR and concludes that buildout of the PSSP would require additional patrol officers, support staff, and equipment to accommodate increased demands for police services. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The project would not contribute to the need for police service. Thus, no further discussion is necessary.

iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR addresses impacts to school services on pages 134 through 135 of the EIR and concludes that buildout of the PSSP would require the construction of additional school facilities and employment of school staff to accommodate increased demands for school services. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The project would not contribute to the need for school service. Thus, no further discussion is necessary.

iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR addresses impacts to parks on pages 133 through 134 of the EIR and concludes that the PSSP would contribute funds to meet park funding obligations. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The project would not contribute to the need for parks. Thus, no further discussion is necessary.

v) Other governmental services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR addresses impacts to social services on page 136 of the EIR and concludes that buildout of the PSSP would result in less-than-significant impacts to social services. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The project would not

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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contribute to the need for social service. Thus, no further discussion is necessary.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. TRANSPORTATION/CIRCULATION - Would the project				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses traffic impacts on pages 45 through 94 of the EIR and concludes that some of the roadway segments in the vicinity of the project site would operate at Level of Service (LOS) E and LOS F, which exceeds the significance threshold of LOS D. The EIRs concludes that some traffic impacts would be significant and unavoidable. The City subsequently made the required findings under Section 21081 of the CEQA Guidelines and adopted a Statement of Overriding Considerations for the impacts identified in the 1995 PSSP EIR. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Further, the infrastructure projects would not generate traffic trips and thus, would not cause an increase in traffic. No further discussion is necessary.				
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 10a.				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The PSSP area is not near any airports and thus, would not affect air traffic patterns. No further discussion is necessary.				
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All roadway improvements would be designed in accordance with all applicable safety design standards. No further discussion is necessary.				
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All roadway improvements would be designed in accordance with all applicable safety design standards, including emergency access standards. No further discussion is necessary.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project does not include the removal or development of parking. No further discussion is necessary.				
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All roadway improvements would be required to comply with all adopted policies, plans, or programs supporting alternative transportation. No further discussion is necessary.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. UTILITIES AND SERVICE SYSTEMS - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
See response to 6a.				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR addresses impacts to water service on pages 132 of the EIR and concludes that impacts would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to the construction of new water or wastewater treatment facilities or expansion of existing facilities associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The 1995 PSSP EIR concludes that impacts related to exceeding the capacity of storm drainage facilities would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP, including storm drainage facilities. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to the construction of new storm water drainage facilities or expansion of existing facilities associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.				
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No impact
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and expanded entitlements needed?

The 1995 PSSP EIR concludes that impacts related to exceeding the capacity of the water service system would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to water supply associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

e) 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?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR concludes that impacts related to exceeding the capacity of the sewage treatment plant would be less than significant. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to wastewater treatment capacity associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The 1995 PSSP EIR concludes that landfills serving the project site and area would have sufficient capacity to accommodate buildout of the PSSP area. The proposed project is a financing mechanism to fund off-site infrastructure projects that are consistent with PSSP. The impacts of implementation of these infrastructure projects have already been addressed in the EIR. Thus, impacts related to landfill capacity associated with annexation are consistent with the analysis presented in the EIR. Thus, no further discussion is necessary.

g) Comply with federal, state, and local statutes and regulations related to solid waste?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Solid waste generated by the proposed project would be disposed in accordance with all applicable local, state, and federal regulations related to solid waste. No further discussion is necessary.

12. 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 pre-history?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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As noted throughout this Addendum, the proposed project would not result in any significant impacts.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed project would be developed as part of the buildout of the PSSP. The potential cumulative impacts of the proposed project and other projected development in the PSSP area have already been analyzed in the 1995 PSSP EIR. Thus, the project would not result in any new or increased cumulative impacts.				
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
As noted throughout this Addendum, the proposed project would not have the potential to result in significant impacts and thus, would not have the potential to result in substantial adverse effects on human beings.				

Determination

The information and analysis presented herein provides substantial evidence for the City of Modesto to make the following findings pursuant to Sections 15090, 15164, and 15162 of the CEQA *Guidelines*:

1. The proposed project would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects requiring the revision to the previous EIR (see checklist answers and associated explanations above);
2. The proposed project would not have circumstances that would result in new significant environmental effects and require revisions to the previous EIR (the only significant impacts identified - loss of agricultural land and intersection LOS - were previously addressed and acknowledged in the 1995 PSSP EIR; and
3. The proposed project would not generate new information not known in the previous EIR that would result in:
 - a. One or more new significant effects (see items 1 and 2 directly above);
 - b. An increase in the severity of a previous significant effect (see item 2 directly above and item (see item 2 directly above and items 1a and 10a in the checklist);
 - c. Find new feasible mitigation measures or alternatives that the project proponents decline to adopt;
 - d. Find new mitigation measures or alternatives different than those in the previous EIR that would reduce significant effects that the project proponents decline to adopt.

Sources

1. Pelandale/Snyder Specific Plan Final Environmental Impact Report, prepared by The Planning Center for the City of Modesto, November 2, 1995.
2. Final Master Environmental Impact Report for the *Urban Area General Plan*, prepared by Jones & Stokes for the City of Modesto, March 2003.
3. 1995 City of Modesto *Urban Area General Plan*.
4. Final Master Environmental Impact Report for the *Urban Area General Plan*, August 15, 1995.
5. City of Modesto Application for Annexation to a Community Facilities District Pursuant to Mello-Roos Act of 1982, December 27, 2002.
6. City of Modesto Initial Study, Covington Pointe Vesting Tentative Subdivision Map, November 25, 2002.
7. *Guide for Assessing and Mitigating Air Quality Impacts*, San Joaquin Valley Air Pollution Control District, August 20, 1998 (adopted), January 10, 2002 (revised).

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-194**

**A RESOLUTION AUTHORIZING ROUTING CHANGES TO MAX ROUTE 34
TO TAKE EFFECT IN AUGUST 2003**

WHEREAS, the City of Modesto's Strategic Plan includes Strategy III.B.1:
"Develop an efficient, well coordinated, county-wide, multi-modal transportation
system", and

WHEREAS, the Modesto Area Express is a critical component of the
transportation system, and

WHEREAS, Route 34 requires routing changes to make it more efficient, and

WHEREAS, the proposed routing changes would result in two different ending
routes in the area currently served by Route 34, and

WHEREAS, the current ending loop would operate on the first and last runs of the
day, and the other eleven runs would operate on a new ending loop in the Village One
area, and

WHEREAS, resources gained by making efficiency changes to Route 34 would
meet the needs of students and workers in Village One while continuing to provide
services to most current riders on the existing route configuration, and

WHEREAS, an agenda report to the Council dated March 20, 2003, from
the Engineering and Transportation Director, City staff recommended making routing
changes to Route 34 and providing new service to Village One, a copy of said report is
attached hereto and incorporated herein by reference, and

WHEREAS, the Economic Development Committee approved the routing change at its March 10, 2003, meeting, and

WHEREAS, a duly noticed public hearing was held by the Council on April 8, 2003 in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, in accordance with Federal Transit Administration regulations, and to solicit public input regarding the proposed route change.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Transit Manager is hereby directed to make the recommended routing changes to Route 34 and provide new service to Village One effective August 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-195**

**A RESOLUTION APPROVING STANDARD AND SPECIFIC INSURANCE
REQUIREMENTS FOR VARIOUS PERMITTEES AND/OR LICENSEES AS
PROVIDED FOR IN THE MODESTO MUNICIPAL CODE.**

WHEREAS, various permittees/licensees are required to provide insurance coverage in accordance with the provisions of the Modesto Municipal code, and

WHEREAS, the Modesto Municipal Code authorizes the City Council to update standard and specific insurance requirements for various permittees and/or licensees from time to time by resolution, and

WHEREAS, at their meetings of January 13, 2003, and March 10, 2003, the Economic Development Committee approved updating the standard and specific insurance requirements to include requirements for taxicab companies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the standard and specific insurance requirements that various permittees and/or licensees are required to provide for insurance coverage in accordance with the provisions of the Modesto Municipal Code are hereby approved as set forth in **Exhibit "A,"** entitled **STANDARD AND SPECIFIC INSURANCE REQUIREMENTS**, dated April 1, 2003, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that any current evidence of insurance coverage already approved by the Risk Manager shall remain on file with the City as being acceptable to the City until the expiration date of each such current evidence of insurance coverage; however, upon renewal of any such permit or insurance certificate, new

requirements for insurance coverage set forth in this resolution shall be effective and required upon the effective date of this resolution.

BE IT FURTHER RESOLVED that upon the effective date of this resolution, any new permittee/licensee shall be required to submit evidence of insurance coverage as required by this resolution.

BE IT FURTHER RESOLVED that this resolution shall not become effective until the effective date of Ordinance No. 3295-C.S. which was introduced by the Council on April 8, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2003, by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

STANDARD AND SPECIFIC INSURANCE REQUIREMENTS

April 2003

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2. General Liability	
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I. STANDARD INSURANCE REQUIREMENTS:

The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies 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, notice of same shall be given to the City Clerk of the CITY by registered mail, return receipt requested.

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 permittee/licensee shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as herinabove provided. Upon failure of the permittee/licensee to furnish, deliver, or maintain such insurance and certificates as above provided, the permit/licensee, at the election of the CITY, may be forthwith declared suspended, or terminated. Failure of the permittee/licensee to obtain and/or maintain any required insurance shall not relieve the permittee/licensee from any liability under the permit/licensee, nor shall the insurance requirement be construed to conflict with or otherwise limit the obligations of the permittee/licensee concerning indemnification. The CITY, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required, 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 permittee/licensee. The permittee/licensee'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.

II. SPECIFIC INSURANCE REQUIREMENTS

A. Ambulance Operators: (MMC §§ 3-8.06 & 3-9.09)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. 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; products and completed operations; and medical malpractice liability.
3. 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.

B. Towing Service Operators: (MMC § 3-10.23(c))

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. General Liability insurance with a minimum limit of liability per occurrence of \$50,000 for bodily injury and \$500,000 for property damage or \$500,000 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; products and completed operations; garage keepers' liability and towing and wrecker liability.
3. Automobile Liability insurance with a minimum limit of liability per occurrence of \$50,000 for bodily injury and \$500,000 for property damage or \$500,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

C. Sidewalk Food Vendors:
(MMC § 4-1.1206)

1. Workers' Compensation in compliance with statues of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. General Liability insurance with a minimum limit of liability per occurrence of \$500,000 for bodily injury and \$50,000 for property damage or \$500,000 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; and products and completed operations.

D. Building Movers:
(MMC § 4-3.07)

1. Workers' Compensation in compliance with the statues of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$1,000,000 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; and products and completed operations.
3. Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily damage or \$1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

E. Taxicab Operators:
(MMC § 4-6.100)

1. Workers' Compensation in compliance with the statues of the State of California, plus employer's liability with a minimum limit of liability of \$500,000. Taxicab permittee/licensee can request a waiver of this requirement by letter to the City Risk Manager if they are not required to carry insurance.

2. General Liability insurance with a minimum limit of liability per occurrence of \$300,000 for bodily injury and \$50,000 for property damage or \$300,000 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 permittee/licensee and subpermittee/licenses; and products and completed operations.
2. Automobile Liability insurance with a minimum limit of liability per occurrence of \$300,000 for bodily injury and \$50,000 for property damage or \$300,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

F. Trampoline Operators:
(MMC § 4-7.1609)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. 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 applying to: premises and operations; broad form contractual; and products and completed operations.

G. Refuse Disposal Operators
(MMC § 5-5.28)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of \$500,000.
2. 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 the policy aggregate limit applying to: premises and operations; broad form contractual; and products and completed operations.
3. 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.

H. Motor Bus Operators:
(MMC § 6-7.207)

1. Workers' Compensation in compliance with statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. 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 the policy aggregate limit applying to: premises and operations; broad form contractual; and products and completed operations.
3. Automobile Liability insurance with a minimum limit of liability per occurrence of \$15,000,000 for bodily injury and \$100,000 for property damage or \$15,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

I. Public Works Permit:
(MMC §§ 7-1.109 & 7-2.29)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of \$500,000.
2. General Liability insurance with a minimum limit of liability per occurrence of \$500,000 for bodily injury and \$50,000 for property damage or \$500,000 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; and products and completed operations.

J. Commercial Aircraft:
(MMC § 7-3.108)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. General Liability insurance with a minimum limit of liability of \$15,000,000 for bodily injury and \$1,000,000 for property damage or \$15,000,000 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; and products and completed operations.

K. Permanently Based Private Aircraft:
(MMC § 7-3.108.1)

1. General Liability insurance with a minimum limit of liability per occurrence of \$300,000 for bodily injury and \$100,000 for property damage or \$300,000 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; and products and completed operations.

L. Motor Vehicles and Motorized Equipment on Air Operations Areas of Airport Premises:
(MMC § 7-3.108.2)

1. Automobile Liability insurance with a minimum limit of liability per occurrence of \$300,000 for bodily injury and \$100,000 for property damage or \$300,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

M. Fixed Base Operators:
(MMC § 7-3.108.3)

1. Workers' Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of \$500,000.
2. 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; products and completed operations; and hanger keepers' liability.

N. Cable Television Franchise:
(MMC § 11-4.33)

1. Workers Compensation in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.
2. General Liability insurance with a minimum limit of liability 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; and products and completed operations.

3. 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. The insurance shall cover any automobile injury and property damage.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-196**

A RESOLUTION CANVASSING THE RESULTS OF THE APRIL 15, 2003, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 1998-2, AND ORDERING ANNEXATION OF SAID TERRITORY TO THE DISTRICT (CARVER-BANGS/PELANDALE-SNYDER - ANNEXATION #2)

WHEREAS, pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), the City Council (the "Council") of the City of Modesto (the "City"), by its Resolution of Formation No. 98-653, adopted on December 8, 1998, formed its Community Facilities District No. 1998-2 (the "District"), relating to territory within the Carver-Bangs and Pelandale-Snyder Specific Plan Areas, and, subject to the vote of the qualified electors therein, authorized the levy of a special tax therein, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 99-286, adopted on June 8, 1999, order a change and add taxes for completion of Snyder Avenue improvements, and

WHEREAS, by its Resolution No. 2000-278, adopted on June 6, 2000, this Council resolved to complete annexation #1 to the District, and

WHEREAS, the Council thereafter declared its intention, by its Resolution of Intention to Annex No. 2003-106, adopted February 25, 2003, to annex certain territory to the District, a boundary map for which is recorded in Volume 3 of Maps of Assessment and Community Facilities Districts at page 73 in the Office of the Stanislaus County Recorder (the "Annexed Territory"), relating to territory within the Village One Area, and to levy a special tax therein (the "Special Tax") as set forth in **Exhibit "A"** hereto, and by this reference incorporated herein, for the purposes of financing certain

facilities and services as set forth in **Exhibit "A"** hereto, and by this reference incorporated herein, and to set a hearing thereon for April 8, 2003, and

WHEREAS, at the conclusion of the public hearing, the Council did, on April 8, 2003, adopt its Resolution No. 2003-192, in which it determined to submit the question of the annexation of territory to the District and the levy of the Special Tax therein to the qualified electors of the Annexed Territory, and called an election thereon, which was held on April 15, 2003, (the "Election"), and

WHEREAS, on April 15, 2003, the Election was held relative to the foregoing, and

WHEREAS, the City Clerk has certified that, at the Election, the proposition of levying the Special Tax within the Annexed Territory was approved by at least two-thirds (2/3) of the votes cast,

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

1. The above recitals are true and correct.
2. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto.
3. Based on the City Clerk's certificate of election results, attached hereto as **Exhibit "B"**, the ballot proposition presented to the qualified electors of the Annexed Territory at the Election received at least two-thirds (2/3) of the votes cast.
4. Pursuant to Section 53339.8 of the Act, it is hereby determined that the Annexed Territory is added to and is a part of the District with full

legal effect, and that this Council may levy the Special Tax within the Annexed Territory.

5. The City Clerk of the City of Modesto is hereby directed to enter this resolution in the minutes of this City Council, which shall constitute the official declaration of the result of such Election, and is hereby further authorized and directed to record notice of the annexation by filing an amendment to the notice of special tax lien with the Office of the County Recorder for the County of Stanislaus pursuant to 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 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Keating

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

Exhibit A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)

CFD PUBLIC REPORT

March 25, 1999

Prepared For:

CITY OF MODESTO

Prepared By:

DAVID TAUSSIG AND ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109

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APPENDICES:

Appendix A: CFD Boundary Map

Appendix B: Rate and Method of Apportionment of Special Tax and Reimbursements

Appendix C: Detailed Facility Cost Estimates

I. BACKGROUND

Community Facilities District (CFD) No. 1998-2 is being formed to provide a funding and reimbursement mechanism for public facilities and services required to serve the Carver-Bangs and Pelandale-Snyder Specific Plans in the City of Modesto. Portions of both Specific Plan areas are included within the initial boundaries of the CFD, and the remainder of the property within both Plan areas is expected to annex into the CFD at a later date.

As a condition of development of the Specific Plan areas, the developers are required to install various public improvements which will serve the increased population generated from the projects. Many of these improvements must be provided in the early stages of development and, therefore, the first developers to build within the projects must install the improvements and receive fee credits or reimbursements in exchange for the facilities. CFD No. 1998-2 is the vehicle that will be used to ensure that all landowners in the Specific Plans pay their fair share of the public improvements. In addition, the CFD will generate funding for ongoing maintenance of landscaping and open space within the project areas.

Following is a brief description of both projects:

A. Carver-Bangs Specific Plan

On April 1, 1997, the City Council of the City of Modesto approved Resolution No. 97-161, thereby adopting the Carver-Bangs Specific Plan. The Specific Plan was subsequently amended by City Council Resolution 97-633. Carver-Bangs is a proposed 160-acre project bounded on the east by Carver Road, on the North by Bangs Avenue, on the south by the Pelandale-Snyder Specific Plan (discussed further below), and on the west by the Kiernan Business Park area. The Carver-Bangs Specific Plan will be developed under the City's Village Residential guidelines, which will yield approximately 800 single family residential units.

B. Pelandale-Snyder Specific Plan

The Pelandale-Snyder Specific Plan was approved by the City Council on January 16, 1996 by the adoption of Resolution No. 95-16, and was subsequently amended by City Council Resolutions 97-136 and 97-139. The Specific Plan area is bounded by Dale Road on the west, the extension of Pelandale Road on the north, Union Pacific Railroad on the east, and the Modesto Irrigation District canal and Snyder Avenue on the South. Approximately 227 acres of the project are designated Single Family Residential (SFR), and 57 acres are designated Multi-Family Residential; in total, 2,613 residential dwelling units are expected at buildout of the Specific Plan. In addition, 36 acres of the Specific Plan area will be used for an elementary school site, a City park, and a church.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT No. 1998-2

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 1998-2 (Resolution No. 98-582) was adopted by the City Council on November 3, 1998. After a public hearing and a successful election by landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of CFD 1998-2

As mentioned above, the initial boundaries of the CFD include portions of both the Carver-Bangs and Pelandale-Snyder Specific Plans. Additional property is expected to annex into the CFD in future years as development in the area expands. It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax formula as property in the CFD from the start, with a maximum Facilities Special Tax (discussed further below) assigned to the property when it is annexed. Property in the Carver-Bangs Specific Plan is included within Tax Area A of the CFD, and parcels in Pelandale-Snyder make up Tax Area B of the CFD. A separate maximum tax has been calculated for each tax area, as discussed further in Section C below.

The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in Volume 3, page 5 of the Book of Maps of Assessment Districts and Community Facilities Districts in the Stanislaus County Recorder's Office. A copy of the CFD boundary map is provided as Appendix A of this CFD Public Report.

C. CFD Special Tax Structure

1. Facilities Special Tax

Each year, special taxes will be levied and collected from parcels within the CFD to pay costs associated with storm drainage and road improvements, as well as maintenance of these improvements (authorized facilities and maintenance costs are discussed in more detail below). The Rate and Method of Apportionment of Special Tax and Reimbursements ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in Sections D and E of the RMA, two different special taxes will be levied within the CFD. First, a "Facilities Special Tax" will be levied to pay for capital improvements and appurtenant expenses, such as design, planning, engineering and inspection. The entire Facilities Special Tax will be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction on a parcel within the CFD. Because each Specific Plan area is responsible for only the facilities required to serve that area, separate "tax areas" were established within the CFD to avoid any crossover of responsibility for the funding of required infrastructure. A separate Facilities Special Tax has been determined for each assessor's parcel that was included within each tax area at the time CFD No. 1998-2 was formed; Attachment 2 of Appendix B identifies the maximum Facilities Special Tax assigned to each parcel.

Section C.1 of the RMA (Appendix B) explains how the Facilities Special Tax obligation assigned to each original assessor's parcel will be reallocated when subdivision occurs. Regardless of changes in land use in future years, the maximum Facilities Special Tax revenues that can be collected from property in the CFD will never be reduced. In January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each assessor's parcel will be increased by four percent of the amount in effect in the prior year.

Section D of Appendix B sets forth a credit/reimbursement program which allows developers who have constructed and dedicated public improvements to take credits against the Facilities Special Taxes that would otherwise be paid until such credits equal the cost set forth in Appendix C of this CFD Public Report for the public improvements provided by the developer. Regardless of the actual cost incurred by the developer for construction of the public improvement(s), credits against the Facilities Special Tax can be taken until the amount credited is equal to the facility cost shown in Appendix C for that improvement(s). If the developer's project is built out and a balance remains to be credited, the developer will instead receive a cash reimbursement from Facilities Special Taxes collected from other property owners in the CFD until the combined amount of fee credits and cash reimbursements is equal to the cost of the public improvement(s) as shown in Appendix C of this report. All costs and reimbursements are subject to a four percent increase in January 2002 and each January thereafter.

Facility Special Tax credits and reimbursements will be applied based on a specified order of priority, which is identified in Attachment 1 of Appendix B. Until all facilities of a higher priority have been fully funded, a developer who builds an improvement that is of a lower priority will not receive fee credits or reimbursements. The order of priority is specific to each tax area, which means facilities of a lower priority may be funded in one tax area even if the higher priority facilities in the other tax area have not yet been fully funded. Appendix B provides a more detailed description of the credit/reimbursement program.

2. Maintenance Special Tax

The second special tax that can be levied in the CFD is the "Maintenance Special Tax"; which will be collected to pay costs associated with maintaining parkways and open space in both Specific Plan areas. Again, a separate maximum Maintenance Special Tax has been determined for Tax Area A and Tax Area B, as shown in the following table:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre

* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

The Maintenance Special Tax will be collected each fiscal year on the property tax bills of all parcels in the CFD that have had a final building permit inspection conducted or a certificate of occupancy issued prior to June 1 of the preceding fiscal year.

III. FACILITIES AND SERVICES TO BE FUNDED BY CFD NO. 1998-2

The facilities and services described below are all facilities which the City of Modesto is authorized to finance and which are required to adequately meet the needs of CFD No. 1998-2. The special taxes required to pay for these facilities and services will be apportioned according to the "Rate and Method of Apportionment of Special Tax" included as Appendix B of this report.

Capital Improvements

A. Carver-Bangs (Tax Area A)

Following is a summary of the capital improvements to be funded through CFD No. 1998-2 to serve the Carver-Bangs Specific Plan. A detailed breakdown of facility components and the corresponding cost estimates is provided in Appendix C of this report.

Storm Drainage Improvements	\$1,494,750
Prescott Road	145,422
American Avenue	24,033
Bangs Avenue	254,305
Carver Road	57,270
American Avenue Canal Overcrossing	295,066
Class I Bike Trail	142,500
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$2,480,847

B. Pelandale-Snyder (Tax Area B)

Storm Drainage Improvements	\$4,389,042
Dale Road	531,075
Prescott Road	628,297
Tully Road	1,011,016
Snyder Avenue	504,283
Class I Bike Trail	752,675
CFD Formation Costs	<u>67,500</u>
Total Capital Improvement Costs	\$7,883,888

Annual Maintenance Costs

A. Carver-Bangs

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Cost</u>	<u>Total Cost</u>
Bangs Avenue (South Side) 8' Landscape Strip (4,680 LF x 8' = 37,400 SF)	37,400	SF	\$0.72	\$26,957
American Avenue (East Side) 8' Landscape Strip (1,200 LF x 8' = 9,600 SF)	9,600	SF	\$0.72	\$6,912
Prescott Road 16' Center Median	10,500	SF	\$0.72	\$7,740
Prescott Road Treewell and Vine Blockouts with 10' Sidewalk and Masonry Wall (56 Each 5' x 5' Treewalls + 56 each 3' x 10' vine blockouts)	3,080	SF	\$0.72	\$2,218
Class I Bike Trail	1,308	SF	\$0.72	\$942
Pelandale Avenue (North Side) Landscape Strip	1,996	SF	\$0.72	\$1,437
Carver Road (West Side) (1,194 L.F. x 8' = 9,552 S.F.)	9,552	SF	\$0.72	\$6,877
Total Annual Maintenance Costs				<u>\$53,083</u>

B. *Pelandale-Snyder*

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Total Cost</u>	
Dale Road (East Side), 12' Wide Landscape Strip (1,255 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584
Prescott Road (East Side), 12' Wide Landscape Strip (1,225 LF x 12' = 14,700 SF)	14,700	SF	\$0.72	\$10,584
Prescott Road 16' Center Median	10,750	SF	\$0.72	\$7,740
Tully Road (Both Sides), 12' Wide Landscape Strip (2,650 LF x 12' = 21,800 SF)	31,800	SF	\$0.72	\$22,896
Tully Road 16' Center Median	10,750	SF	\$0.72	\$7,740
Class I Bike Trail	8,820	SF	\$0.72	\$6,350
Pelandale Avenue (South Side)	10,400	SF	\$0.72	\$7,488
Carver West Side Back-up Lots South of Pelandale Avenue (515 L.F. x 5' = 2,575)	2,575	SF	\$0.72	\$1,854
Landscaping Surrounding Storm Drain Basins	35,000	SF	\$0.72	\$25,200
Total Annual Maintenance Costs				\$100,436

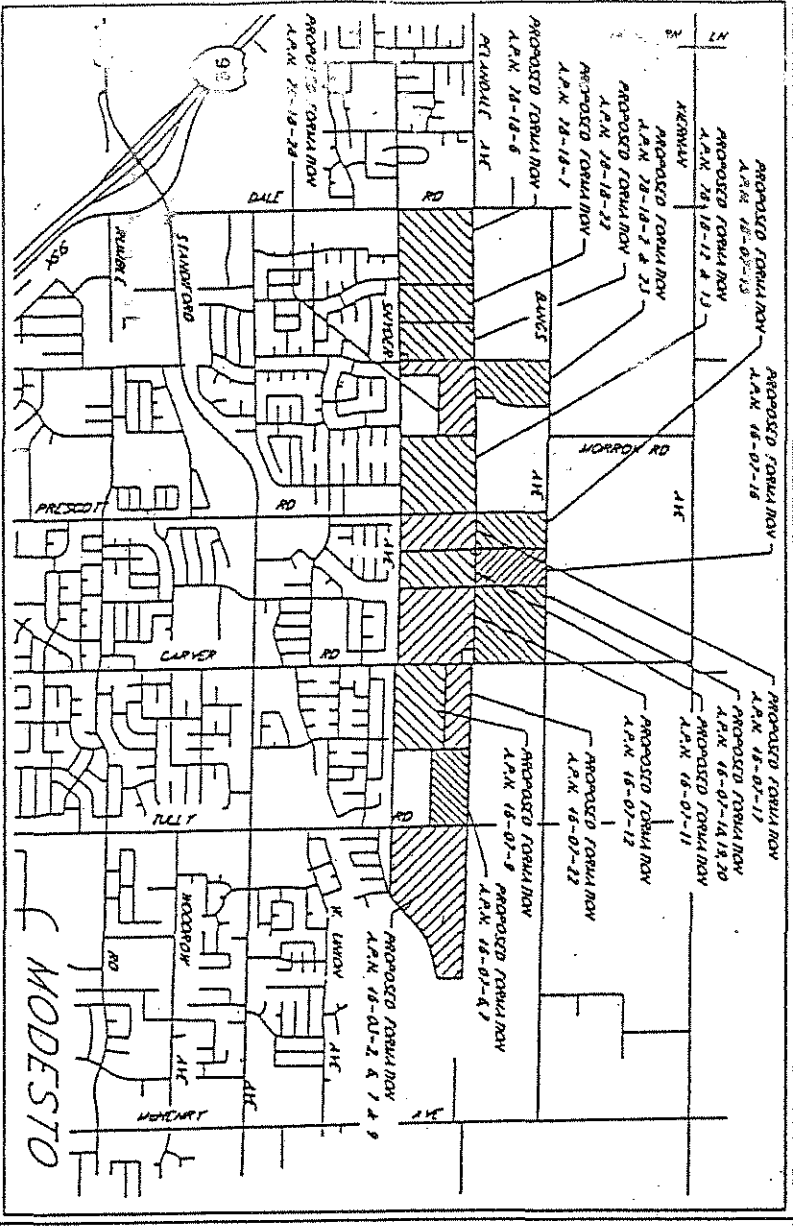
The description of facilities and services, as set forth herein, is general in nature. The final nature and location of improvements will be determined upon the preparation of final plans and specifications.

APPENDIX A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

BOUNDARY MAP

PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) COUNTY OF STANISLAUS, STATE OF CALIFORNIA



CFD 1998-2 FORMATION MAP

NO SCALE



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NOTE: THE RECORD OF SALES BY THE COUNTY OF STANISLAUS, COUNTY RECORDER, AND THE COUNTY OF CALIFORNIA, COUNTY RECORDER, HAVE BEEN REVIEWED AND FOUND TO BE CORRECT AND VALID FOR ALL PURPOSES.

NOTE: THE DISTRICTS SHOWN HEREON ARE THE DISTRICTS AS SET FORTH IN THE RECORDS OF THE COUNTY OF STANISLAUS, COUNTY RECORDER, AND THE COUNTY OF CALIFORNIA, COUNTY RECORDER.

NOTE: THIS MAP WAS PREPARED BY THE SURVEYOR UNDER MY DIRECTION AND WAS BASED ON THE RECORDS OF THE COUNTY OF STANISLAUS, COUNTY RECORDER, AND THE COUNTY OF CALIFORNIA, COUNTY RECORDER. I HEREBY STATE THAT THE MAP ACCURATELY REPRESENTS THE RECORDS OF THE COUNTY OF STANISLAUS, COUNTY RECORDER, AND THE COUNTY OF CALIFORNIA, COUNTY RECORDER.

DATED THIS _____ DAY OF _____, 1998
ROY A. GULL, R.C.L. 10024

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS _____ DAY OF _____, 1998.

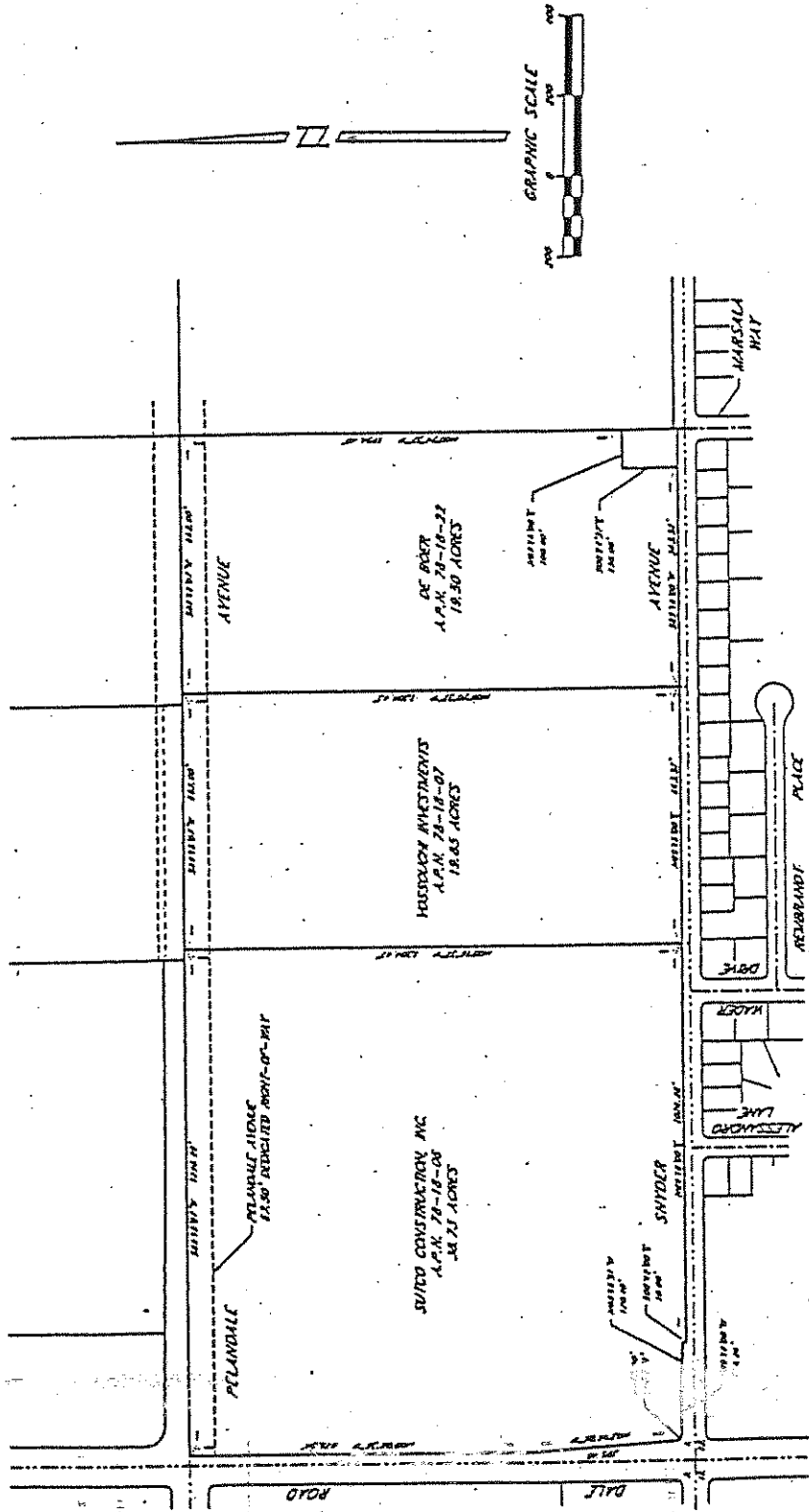
LEW ZARR, CITY CLERK

I HEREBY CERTIFY THAT THE RECORDS SHOWING PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2, (CARVER-BANGS/PELANDALE-SNYDER), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY CLERK OF THE CITY OF MODESTO, AT A MEETING HEREOF, HELD ON THE _____ DAY OF _____, 1998, AT _____ RECORDING NO. _____

LEW ZARR, CITY CLERK

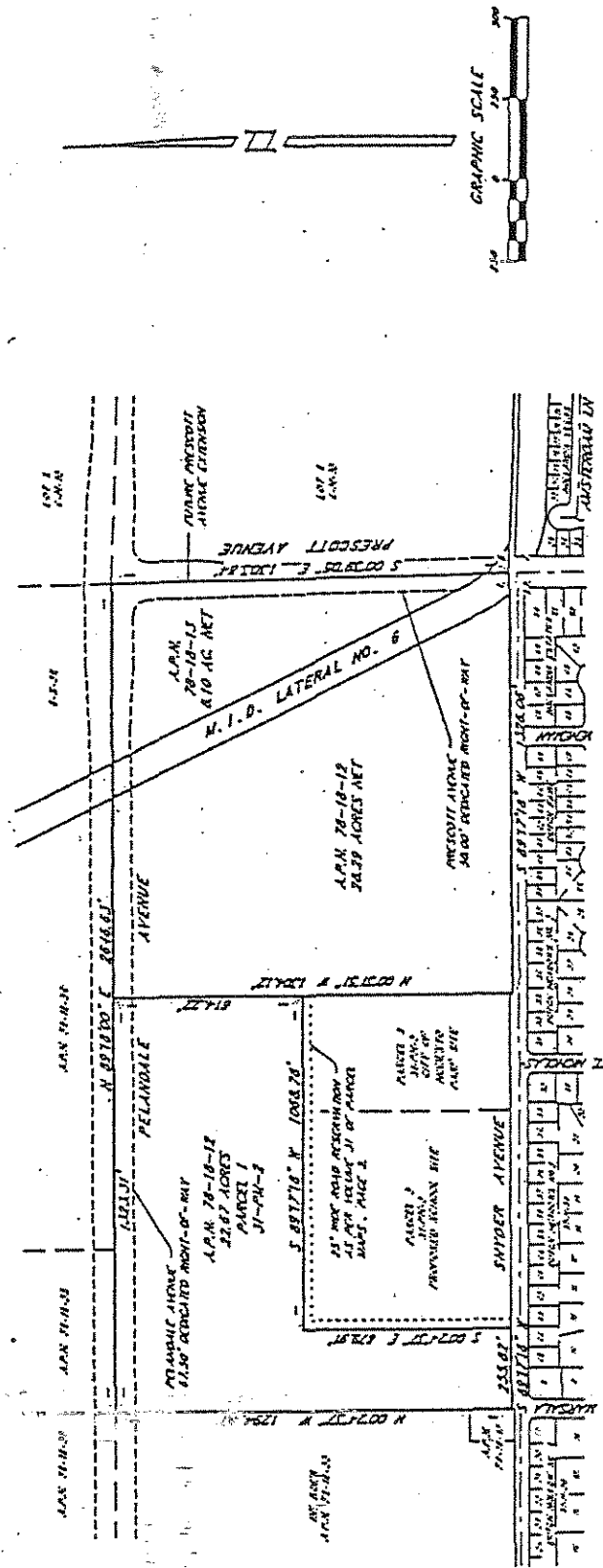
RECORDER'S STATEMENT:
I, _____, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE RECORDS SHOWING PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2, (CARVER-BANGS/PELANDALE-SNYDER), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY CLERK OF THE CITY OF MODESTO, AT A MEETING HEREOF, HELD ON THE _____ DAY OF _____, 1998, AT _____ RECORDING NO. _____

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARYER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
 1007 JONATHAN DRIVE • STOCKTON, CA 95210 • (209) 325-1100 • FAX (209) 325-1101

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
 1200 W. THIRD STREET • PORTER, CA 95127 • TEL: (415) 972-2211 • FAX: (415) 972-2211

APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

RATE AND METHOD OF APPORTIONMENT OF
SPECIAL TAX AND REIMBURSEMENTS

EXHIBIT B

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANCS/PELANDALE-SNYDER)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND REIMBURSEMENTS

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1998-2 (herein "CFD No. 1998-2") 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. 1998-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1998-2 unless a separate Rate and Method of Apportionment of Special Tax and Reimbursements is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map, parcel map, or other recorded County parcel map.

"Administration Component" means that portion of the Facilities Special Tax which must be paid (i.e., is not subject to fee credits) prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure. The revenue collected from the Administration Component will be used by the City to pay annual expenses, consultants' fees, and staff time associated with administering the CFD, monitoring the Authorized Facilities and effecting reimbursements, including but not limited to the following: (i) tracking development in the CFD, (ii) preparing the tax roll for the Annual Maintenance Special Tax, (iii) calculating and collecting the Facilities Special Tax, (iv) engineering, (v) planning, (vi) legal services, and (vii) acquisition and construction of land and improvements associated with the Authorized Facilities.

"Administrator" shall mean the person(s) or firm(s) designated by the City to administer the Special Tax according to this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor's Parcel number.

"Authorized Facilities" or "Authorized Facility" means those public improvements (including portions of such public improvements) to be funded by CFD No. 1998-2 as identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements, including appurtenant expenses such as planning, design, engineering and inspection.

"Buildable Lot" means an individual numbered lot which is in its final configuration and for which a building permit may be issued.

"CFD Costs" means the total amount shown in the CFD Public Report to cover costs associated with CFD formation, CFD administration, and engineering, legal services, planning and geotechnical studies related to the Authorized Facilities.

"CFD Public Report" means the report filed with the City Clerk on behalf of CFD No. 1998-2 pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982.

"Church Property" means any Parcel within the CFD that is exempt from ad valorem property taxes because it is owned by a religious organization.

"City" means the City of Modesto.

"Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1998-2.

"Credit/Reimbursement Amount" means the sum of the portion of the CFD Costs and the costs of Authorized Facilities that have been paid in advance by a builder/developer and have not yet been reimbursed to that builder/developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the builder/developer from Facilities Special Taxes collected from other builders/developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

"Facilities Special Tax" means a Special Tax collected by the City to pay for one or more of the following: (i) the costs of Authorized Facilities and CFD Costs, (ii) to reimburse a builder/developer who has an outstanding Credit/Reimbursement Amount, and (iii) if all Authorized Facilities have been completed, to pay for maintenance authorized to be funded by the CFD.

"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.*).

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 1998-2, 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 Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

"Non-Residential Property" means, in any Fiscal Year, all Parcels for which a building permit has been issued for a commercial, office or industrial establishment or any other use which is not single family or multi-family residential property and which is not exempt from Special Taxes pursuant to Section F below.

"Order of Priority" means the order in which the Authorized Facilities and CFD Costs must be fully credited or reimbursed before Special Tax Credits can be made against the Facilities Special Tax or reimbursements paid to a builder/developer for other CFD facilities that are of lower priority. The Order of Priority is identified in Attachment 1 of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Original Parcel" means an Assessor's Parcel that will be further subdivided upon recordation of a Final Map. The Original Parcels in CFD No. 1998-2 at the time the Resolution of Formation of CFD No. 1998-2 was approved by the Council are listed in Attachment 2.

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Reimbursable Cost" means, for any of the Authorized Facilities, the amount shown in 1998 dollars in the CFD Public Report, which amount shall, beginning in January 2002 and each January thereafter, be increased by four percent (4%) of the amount in effect in the prior year.

"Special Tax Credit" means a waiver of the creditable portion of the Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the builder/developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

"Subdivided Property" means, in any Fiscal Year, all Buildable Lots for which a final building permit inspection has taken place or a certificate of occupancy has been issued prior to June 1 of the preceding Fiscal Year.

"Successor Parcel" means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel within the CFD.

"Taxable Property" means, in any Fiscal Year, all Parcels in CFD No. 1998-2 that have not been exempted from the Special Tax pursuant to Section F below.

"Tax Area A" means parcels within the Carver-Bangs Specific Plan Area, which Area is shown in Attachment 3A of this Rate and Method of Apportionment of Special Tax and Reimbursements.

"Tax Area B" means parcels within the Pelandale-Snyder Specific Plan Area, which Area is shown in Attachment 3B of this Rate and Method of Apportionment of Special Tax and Reimbursements.

B. ANNUAL MONITORING

The Administrator shall keep an ongoing record of the Acreage and current Assessor's Parcel numbers within Tax Area A and Tax Area B and, after July 1 of each Fiscal Year, shall identify the Assessor's Parcels which have become Subdivided Property and, therefore, will be subject to the levy of the Maintenance Special Tax in that Fiscal Year. The Administrator shall also continually monitor Subdivided Property to ensure the Facilities Special Tax is collected prior to final building permit inspection or issuance of a certificate of occupancy (whichever occurs first), unless the Parcel qualifies for a Special Tax Credit, as discussed further in Section D below.

C. MAXIMUM SPECIAL TAX

1. *Facilities Special Tax*

The maximum 1998 Facilities Special Tax for Original Parcels in CFD No. 1998-2 when the CFD was formed is shown in Attachment 2. Each time a Final Map is approved within the CFD or when Parcels in the CFD are otherwise subdivided or reconfigured, the Administrator shall reallocate the maximum Facilities Special Tax assigned to each Original Parcel to the Subsequent Parcels created by approval of the Final Map as follows:

- Step 1a. Identify the maximum Facilities Special Tax applicable to the Original Parcel being subdivided (the maximum Facilities Special Tax for Original Parcels in the CFD when the CFD was formed are shown in Attachment 2);
- Step 1b. Determine the Acreage of Taxable Property within the approved Final Map;
- Step 1c. Determine the total Acreage of Taxable Property within the Original Parcel being subdivided, including the Taxable Property within the Final Map;

- Step 1d. Divide the Acreage determined in Step 1b by the total Acreage of the Original Parcel determined in Step 1c to calculate a percentage;
- Step 1e. Multiply the percentage determined in Step 1d by the amount identified in Step 1a to calculate the maximum Facilities Special Tax to be allocated to the Final Map area. If a Final Map is approved for a portion of an Original Parcel, the maximum Facilities Special Tax that has not been allocated to the Final Map area will stay assigned to the remainder of the Taxable Property within the Original Parcel until it is further subdivided;
- Step 1f. Spread the maximum Facilities Special Tax calculated in Step 1e to each of the Successor Parcels within the Final Map area based on each Successor Parcel's share of the Acreage of Taxable Property within the Final Map.

After each reallocation of the maximum Facilities Special Tax upon subdivision or reconfiguration of Original Parcels, the sum of the maximum Facilities Special Tax assigned to Subsequent Parcels shall never be less than the maximum Facilities Special Tax assigned to the Original Parcel(s) prior to such reallocation. Beginning in January 2002 and each January thereafter, the maximum Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. *Annual Maintenance Special Tax*

All Subdivided Property within the CFD shall be subject to an Annual Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1998-2 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner. The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1998-2 for Fiscal Year 1998-99:

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER-BANGS/PELANDALE-SNYDER) FISCAL YEAR 1998-99 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX*		
<i>Land Use Type</i>	<i>Tax Area A (Carver-Bangs)</i>	<i>Tax Area B (Pelandale-Snyder)</i>
Single Family	\$118 per unit	\$92 per unit
Multi-Family	\$945 per Acre	\$733 per Acre
Non-Residential	\$945 per Acre	\$733 per Acre

* Beginning in January 1999 and each January thereafter, the maximum Annual Maintenance Special Tax shall be increased by 4% of the amount in effect in the prior year. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain builders/developers may be required to pay CFD Costs and fund and construct Authorized Facilities that are ultimately intended to be funded from Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, which will ensure that builders/developers that pay more than their fair share of the CFD Costs and/or Authorized Facilities costs will be reimbursed for the overage.

At the request of the landowners and developers at the time this Rate and Method of Apportionment was prepared and CFD No. 1998-2 was formed, all credits and reimbursements to builder/developers who provide Authorized Facilities shall be in amounts equal to the costs set forth for those Authorized Facilities in the CFD Public Report (except as adjusted as described below). Pursuant to this request, whether the actual cost to build an Authorized Facility is higher or lower than the amount shown in the CFD Public Report for that Authorized Facility, a builder/developer shall be credited and/or reimbursed for the dollar amount included in the CFD Public Report for that Authorized Facility. If there is a cost savings for one Authorized Facility and a cost overrun for another, there is no opportunity pursuant to this Rate and Method of Apportionment for the cost savings to offset the cost overrun.

The following steps shall be applied to implement the credit/reimbursement program:

On an Ongoing Basis

- In January 2002 and each January thereafter, the Administrator shall escalate the following items by four percent (4%): (i) the Facilities Special Tax assigned to each Parcel, (ii) the Credit/Reimbursement Amount outstanding for any builder/developer, and (iii) the costs of Authorized Facilities that have not yet been constructed. An updated list of these three items shall be available each year by February 15.

- The Administrator will keep a current list of the adjustments that have been applied in each year to the items listed above.
- The Administrator will keep track of which Authorized Facilities shown in Attachment 1 have been fully credited or reimbursed to establish the next Authorized Facility to be funded according to the Order of Priority.
- For builder/developers who pay more than their pro-rata share of the cost of particular Authorized Facilities and/or CFD Costs and are due a reimbursement after applying Special Tax Credits, the Administrator shall keep track of the date on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) to ensure that reimbursements of costs that fall within the same Order of Priority will be made on a first incurred/first paid basis.

When a Final Map is Approved by the City Council:

- Step 1.* The Administrator shall determine which Authorized Facilities the builder/developer subdividing the property has funded;
- Step 2.* The Administrator shall determine the Order of Priority for the Authorized Facilities funded by the builder/developer. If the improvements are not first in the Order of Priority, the Administrator shall determine whether facilities that are of a higher priority have yet been fully reimbursed or credited;
- Step 3.* By reference to the detailed cost estimates set forth in the CFD Public Report, the Administrator shall determine the estimated 1998 cost that had been included in the maximum Facilities Special Tax for the Authorized Facilities provided by the builder/developer;
- Step 4.* Using 2002 as the first year of escalation, the Administrator shall escalate the cost of the Authorized Facilities (as shown in the CFD Public Report) provided by the builder/developer to the year in which the Credit/Reimbursement Amount is being calculated. This escalation shall apply on an annual basis (i.e., subtract 2001 from the then current year to determine how many years worth of escalation to apply) and shall be compounded in the same manner as the Facilities Special Tax has been escalated. This escalated cost represents the total Credit/Reimbursement Amount due to the builder/developer, the balance of which, as of the year 2002 and each year following, shall be escalated by four percent (4%) each year until fully reimbursed or credited against Facilities Special Taxes paid by the builder/developer.

Prior to final building permit inspection or issuance of a certificate of occupancy
(whichever occurs first)

Note: the following steps may be applied to a single Parcel or a group of Parcels (i.e., all residential lots within a particular Final Map)

The Administrator shall determine if the builder/developer has an outstanding Credit/Reimbursement Amount and apply one of the following:

Step 1. If there is an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps to determine if a Facilities Special Tax is due from the subject Parcel(s):

Step 1a. Identify the Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding;

Step 1b. Multiply the amount determined in Step 1a by .07 to calculate the Administration Component, which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 1c. Subtract the Administration Component calculated in Step 1b from the Facilities Special Tax identified in Step 1a to calculate the net amount that could be collected for facility costs, and apply one of the following:

- *If the net amount determined in Step 1c is less than the outstanding Credit/Reimbursement Amount for the builder/developer, the Administration Component calculated in Step 1b shall be collected and the builder/developer shall be given a Special Tax Credit against the remainder of the Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract that amount from the outstanding Credit/Reimbursement Amount for that builder/developer.*

- *If the net amount determined in Step 1c is greater than the outstanding Credit/Reimbursement Amount for the builder/developer, subtract the outstanding Credit/Reimbursement Amount from the net amount of Facilities Special Tax calculated in Step 1c to determine the amount that must be paid by the builder/developer. If the calculation is being prepared*

for multiple Parcels at one time, the builder/developer may use up the remaining Credit/Reimbursement Amount by taking Special Tax Credits against the first lots to develop and pay the remaining balance when the subsequent lots develop. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that builder/developer.

Step 2. If there is not an outstanding Credit/Reimbursement Amount for the builder/developer, the Administrator shall apply the following steps:

Step 2a. Identify the Facilities Special Tax assigned to the Parcel(s), which shall be due and payable to the City prior to final building permit inspection or issuance of a certificate of occupancy (whichever comes first);

Step 2b. Multiply the amount determined in Step 2a by .07 to calculate the Administration Component, which shall remain on deposit with the City;

Step 2c. Subtract the Administration Component calculated in Step 2b from the Facilities Special Tax identified in Step 2a to calculate the net amount that shall be collected to provide reimbursements to builder/developers with outstanding Credit/Reimbursement Amounts;

Step 2d. Determine whether there is an outstanding Credit/Reimbursement Amount due other builder/developers in the CFD and apply one of the following:

- *If there are outstanding Credit/Reimbursement Amounts*, look at the Order of Priority of the Authorized Facilities for which a Credit/Reimbursement Amount is due. In addition, identify the dates on the "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" (or other such certificate issued by the City) which were provided to each builder/developer for which a Credit/Reimbursement Amount is outstanding. Reimbursements shall be paid based on the Order of Priority and, if there are multiple Credit/Reimbursement Amounts due within the same priority level, based on the date on which a "Notice of Completion of Public Facilities to be Acquired by CFD No. 1998-2" was issued to each

builder/developer. After the reimbursements are made, the Administrator shall reduce the Credit/Reimbursement Amount for the builder/developer(s) who received reimbursement by the amount of such reimbursement.

If there are no outstanding Credit/Reimbursement Amounts due any builder/developer, the City shall deposit the Facilities Special Tax into an account which will be designated for funding the Authorized Facilities. The balance in this fund will be used either to pay directly for the construction of Authorized Facilities or to reimburse a builder/developer who constructs Authorized Facilities in future years. The interest earned on funds in this account shall accrue to the account for the same purposes.

E. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The maximum Facilities Special Tax determined pursuant to Section C above shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction (whichever occurs first) for any residential or non-residential structure within CFD No. 1998-2 and shall be immediately delinquent if not so paid.

2. Annual Maintenance Special Tax

Commencing with Fiscal Year 1999-00 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Subdivided Property as follows:

Step 1: Calculate the total Maintenance Special Tax revenues that could be collected from Subdivided Property within the CFD, based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C.2 above;

Step 2: Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1;

Step 3: If the ratio determined in Step 2 is greater than or equal to 1, levy the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 on all Subdivided Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: If the ratio determined in Step 2 is less than 1, levy the maximum Annual Maintenance Special Tax against all Parcels of Subdivided Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 above until the amount so levied equals the Maintenance Special Tax Requirement for the Fiscal Year.

The Annual Maintenance Special Tax for CFD No. 1998-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1998-2 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes levied on the County tax roll.

In no event shall the Maintenance Special Tax levied and collected in one Tax Area be increased due to delinquencies in the other Tax Area.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax and Reimbursements, no Special Tax shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. No Annual Maintenance Special Tax shall be levied on Church Property unless such Church Property is built on a Parcel or Parcels that had previously been developed with residential or non-residential land uses which had paid the Annual Maintenance Special Tax. The maximum Annual Maintenance Special Tax assigned to such Church Property would be equal to the maximum Annual Maintenance Special Tax that had previously been assigned to the residential or non-residential land uses on the property.

The Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus simple 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 pursuing the delinquency by an action on a contract or 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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ATTACHMENT 1

COMMUNITY FACILITIES DISTRICT NO. 1998-2 (CARVER BANGS/PELANDALE-SNYDER) ORDER OF PRIORITY OF AUTHORIZED FACILITIES

First Priority

- Storm drain basin construction (including but not limited to basins, inlet structures, pipelines, and fencing)
- Storm drain trunkline in Snyder Avenue adjacent to school and park sites
- CFD Costs (as identified in the CFD Public Report)
- Engineering design costs for storm drain related improvements (including geotechnical)

Second Priority

- Storm drain basin land purchase for both basins (Van Konynenburg properties), east and west of Modest Irrigation District lateral No. 6

Third Priority

- Storm drain trunk lines (other than trunkline in Snyder Avenue adjacent to school and park sites)

[Note that storm drain trunk lines are specific to each tax area and will remain a third priority within a tax area until all trunk lines within that tax area are credited or reimbursed.]

Fourth Priority

- Storm drain pump station, piping and landscaping around storm drainage basin

Fifth Priority, Tax Area A (Carver Bangs)

- Bike trail
- American Avenue
- Prescott Road
- Bangs Avenue
- Carver Road
- American Avenue crossing of Modest Irrigation District lateral No. 6
- Pedestrian bridge crossing of Modesto Irrigation District lateral No. 6

Fifth Priority, Tax Area B (Pelandale-Snyder)

- Bike trail
- Dale Road
- Prescott Road
- Tully Road
- Snyder Avenue (opposite)
- Tully/Snyder traffic signal

ATTACHMENT 2
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER-BANGS/PELANDALE-SNYDER)
MAXIMUM FACILITIES SPECIAL TAX

<u>Assessor Parcel No.</u>	<u>Property Owner</u>	<u>Net Acreage</u>	<u>1998 Maximum Facilities Special Tax/1</u>
Carver-Bangs			
<i>Tax Area A, Carver-Bangs</i>			
78 12 02	Calvary Chapel	0.89	\$17,189
78 18 23	Calvary Chapel	14.19	\$274,065
78 18 24	William Han	28.90	\$558,173
78 18 14	Lowry, Luscher, Donovan	22.60	\$436,495
46 07 15	Kaufman & Broad	16.39	\$316,555
46 07 16	Elaine Fowler	18.11	\$349,775
46 07 18	Ronald Malik	8.75	\$168,997
46 07 19	Ronald Malik	19.30	\$372,759
46 07 20	Ronald Malik	<u>8.31</u>	<u>\$160,499</u>
<i>Total, Carver-Bangs</i>		<i>137.44</i>	<i>\$2,654,506</i>
Pelandale-Snyder			
<i>Tax Area B, Pelandale-Snyder</i>			
78 18 06	TRS Enterprises	35.45	\$968,228
78 18 7	Vossoughi Investments	18.67	\$509,924
78 18 22	Rodney K. Lowe, Inc.	18.35	\$501,184
78 18 28	Corn-Harris Development	20.62	\$563,184
78 18 12	Resource Development	24.08	\$657,685
46 07 17	Marlene Johnston, et. al.	16.22	\$443,009
46 07 11	Verna Mae Johnson Trust	17.95	\$490,259
46 07 12	William P. Couture	35.65	\$973,691
46 07 09	Red Rock Ranch	13.05	\$356,428
46 07 09	Walker Family Partnership	26.90	\$734,706
46 07 07	Resource Development	13.89	\$379,371
46 07 06	Resource Development	4.58	\$125,091
46 07 08	Brent & Diana Holtz	18.62	\$508,559
46 03 02	Big Valley Grace Comm. Church	7.20	\$196,650
46 03 06	Big Valley Grace Comm. Church	9.07	\$247,724
46 03 07	Big Valley Grace Comm. Church	18.10	\$494,356
46 03 09	Big Valley Grace Comm. Church	<u>19.33</u>	<u>\$285,711</u>
<i>Total, Pelandale-Snyder</i>		<i>317.73</i>	<i>\$8,435,760</i>

/1 Maximum taxes shall be increased each year by four percent of the amount in effect in the prior year.

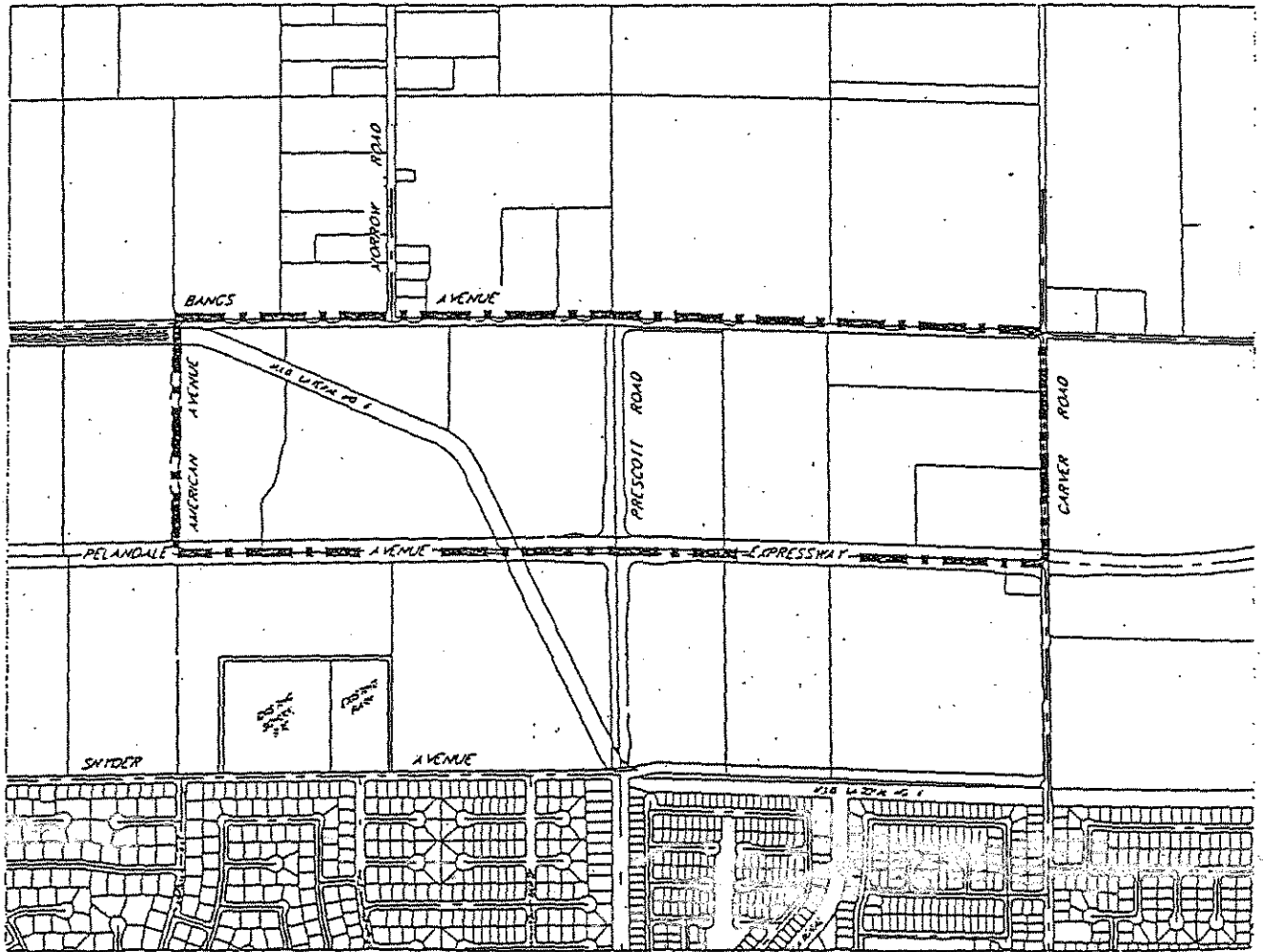
ATTACHMENT 3

COMMUNITY FACILITIES DISTRICT NO. 1998-2
(CARVER BANGS/PELANDALE-SNYDER)

IDENTIFICATION OF TAX AREA A AND TAX AREA B

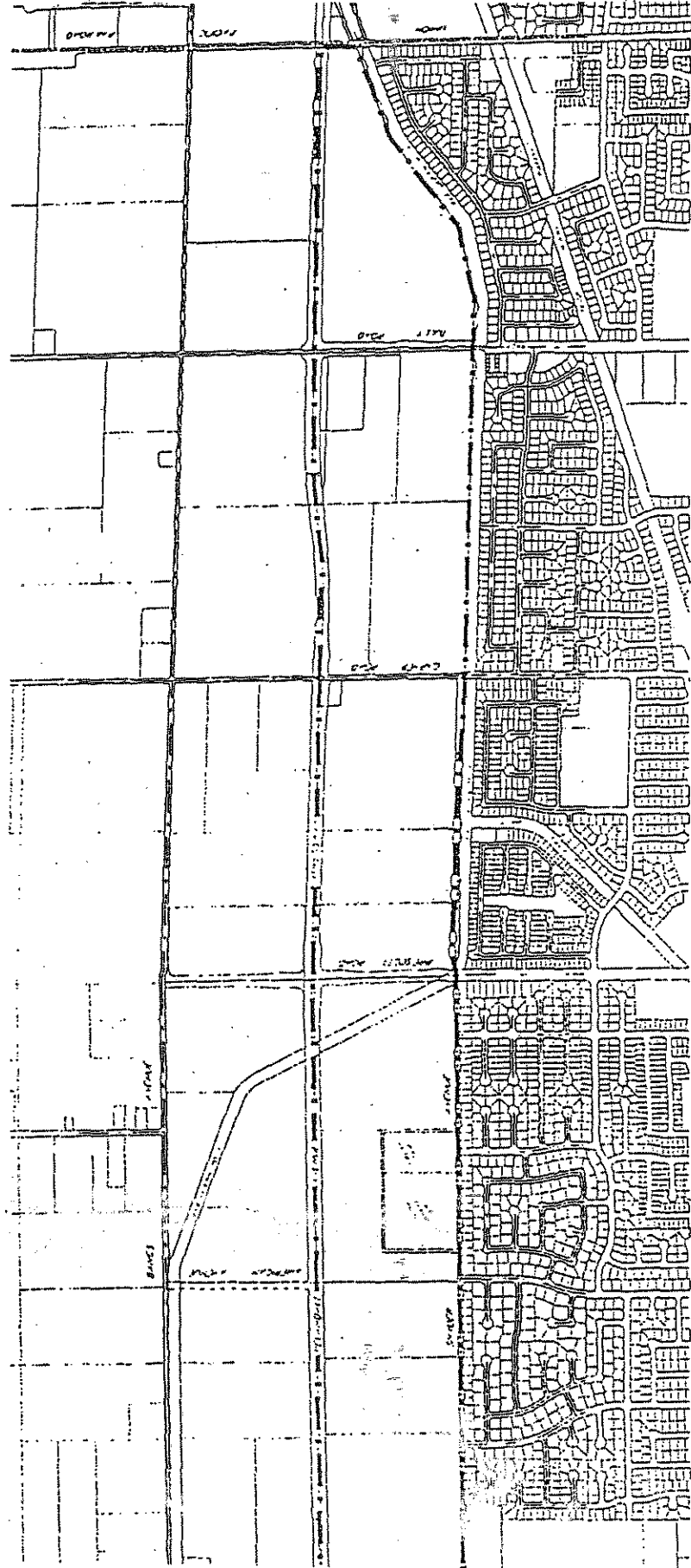
COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "A"

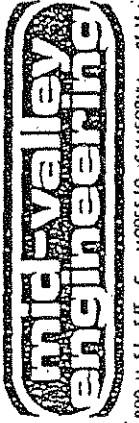


COMMUNITY FACILITIES DISTRICT NO. 1998-2

TAX AREA "B"



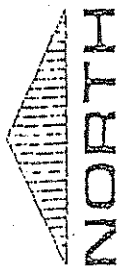
FAX (209) 526-0800
SHEET 7 OF 1



900 H ST. STE. C. MODESTO, CALIFORNIA 95354
(209) 526-4714

*C.F.D. 1998-2
(CARVER-BANGS/
PELANDALE-SNYDER)
ATTACHMENT 3B*

Drawn	JRM
Date	10-14-98
Scale	
Proj. No.	1998-16
Sheet	7 of 8



APPENDIX C

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1998-2

DETAILED FACILITY COST ESTIMATES

CARVER-BANGS
(TAX AREA A)

DETAILED FACILITY COST ESTIMATES

**CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT (CFD) 1998-2
SUMMARY**

I. CARVER / BANGS SPECIFIC PLAN AREA

TOTAL ESTIMATED CFD COSTS

\$2,480,847
\$2,424,418

A. C.F.D. FEE PER NET ACRE

\$2,424,418 / 137.44 NET ACRES = COST PER NET ACRE =====>

\$17,640

B. ANNUAL LANDSCAPE MAINTENANCE COSTS PER NET ACRE

COST PER NET ACRE =====>

\$715

CARVER / BANGS (TAX AREA A)
SPECIFIC PLAN AREA
CFD REIMBURSEMENT PRIORITY

I. ORDER OF REIMBURSEMENT AND/OR CREDIT

A. FIRST PRIORITY

1. STORM DRAIN BASIN CONSTRUCTION (INCLUDING BUT NOT LIMITED TO BASINS, INLET STRUCTURES, PIPELINES, AND FENCING)
2. STORM DRAIN TRUNKLINE IN SNYDER AVENUE ADJACENT TO SCHOOL AND PARK SITES.
3. ALL CFD RELATED FORMATION COSTS (I.E., CITY OF MODESTO, DAVID TAUSSIG AND ASSOCIATES, KAUFMAN & BROAD, RON MALIK, MID-VALLEY ENGINEERING, J.B. ANDERSON LAND PLANNING, RUSSELL A. HARRISON, CONSULTING CIVIL ENGINEER, INC., AND HERUM, CRABTREE, DYER, ZOLEZZI AND TERPSTRA).
4. ALL ENGINEERING DESIGN COSTS FOR STORM DRAIN RELATED IMPROVEMENTS (INCLUDING GEOTECHNICAL).

B. SECOND PRIORITY

1. STORM DRAIN BASIN LAND PURCHASE FOR BOTH BASINS (VAN KONYNENBURG PROPERTIES), EAST AND WEST OF MODESTO IRRIGATION DISTRICT LATERAL NO. 6.

C. THIRD PRIORITY

1. STORM DRAIN TRUNK LINES.

D. FOURTH PRIORITY

1. STORM DRAIN PUMP STATION, PIPING AND LANDSCAPING AROUND THE STORM DRAIN BASIN.

E. FIFTH PRIORITY

1. BIKE TRAIL
2. AMERICAN AVENUE.
3. PRESCOTT ROAD.
4. BANGS AVENUE.
5. CARVER ROAD

**CARVER BANGS SPECIFIC PLAN AREA (TAX AREA A)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY**

A.	STORM DRAINAGE	\$1,494,750
B.	PRESCOTT ROAD	\$145,422
C.	AMERICAN AVENUE	\$24,033
D.	BANGS AVENUE	\$254,305
E.	CARVER ROAD	\$57,270
F.	AMERICAN AVENUE CANAL CROSSING	\$295,066
G.	CLASS I BIKE TRAIL	\$142,500
H.	FORMATION COSTS	\$67,500
TOTAL CFD COSTS <u>=====</u>		\$2,480,847

NOTE:

1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE COSTS IS ESTIMATED AT \$751 PER ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF PELANDALE-SNYDER
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. STORM DRAIN TRUNK LINES</u>					
<u>A. CONSTRUCTION</u>					
1.	30" STORM	2,549	LF	\$100.00	\$254,900
2.	36" STORM	1,279	LF	\$121.00	\$154,759
3.	48" STORM	597	LF	\$161.00	\$96,117
4.	SHARE OF 54" STORM DRAIN TO BASIN	46	LF	\$182.00	\$8,372
5.	MANHOLES	14	EA	\$5,750.00	\$80,500
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$594,648
10% CONTINGENCY =====>					\$59,465
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$654,113
<u>II. STORM DRAINAGE BASIN FACILITIES</u>					
<u>A. CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	42,628	CY	\$6.00	\$255,768
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$165,445.00	\$165,445
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$8,943.00	\$8,943
4.	FENCING	1,227	LF	\$16.00	\$19,632
5.	LANDSCAPING	10,433	SF	\$2.80	\$29,212
6.	INLETS	LUMP SUM	LS	\$2,981.00	\$2,981
7.	STRIPPING / CLEARING / DISCING	LUMP SUM	LS	\$2,981.00	\$2,981
SUB-TOTAL STORM DRAIN BASIN FACILITIES =====>					\$484,962
10% CONTINGENCY =====>					\$48,496
TOTAL STORM DRAIN BASIN FACILITIES =====>					\$533,459
<u>B. FEES</u>					
1.	ENGINEERING	1	EST	\$29,808.00	\$29,808
2.	STAKING	1	EST	\$14,755.00	\$14,755
3.	CONSTRUCTION MANAGEMENT	1	EST	\$19,873.00	\$19,873
4.	GEOTECHNICAL	1	EST	\$5,365.00	\$5,365
TOTAL FEES =====>					\$64,436

Carver-Bangs Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. LAND ACQUISITION					
1.	LAND PURCHASE	29.81% OF TOTAL COST OF \$1,030,239 =			\$305,054
2.	ADMINISTRATION	LUMP SUM	LS	\$2,125,00	\$2,125
TOTAL LAND ACQUISITION ==>					\$307,179
GRAND TOTAL ==>					\$1,494,750

NOTES:

1. THE CARVER-BANGS PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCE WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENTS THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

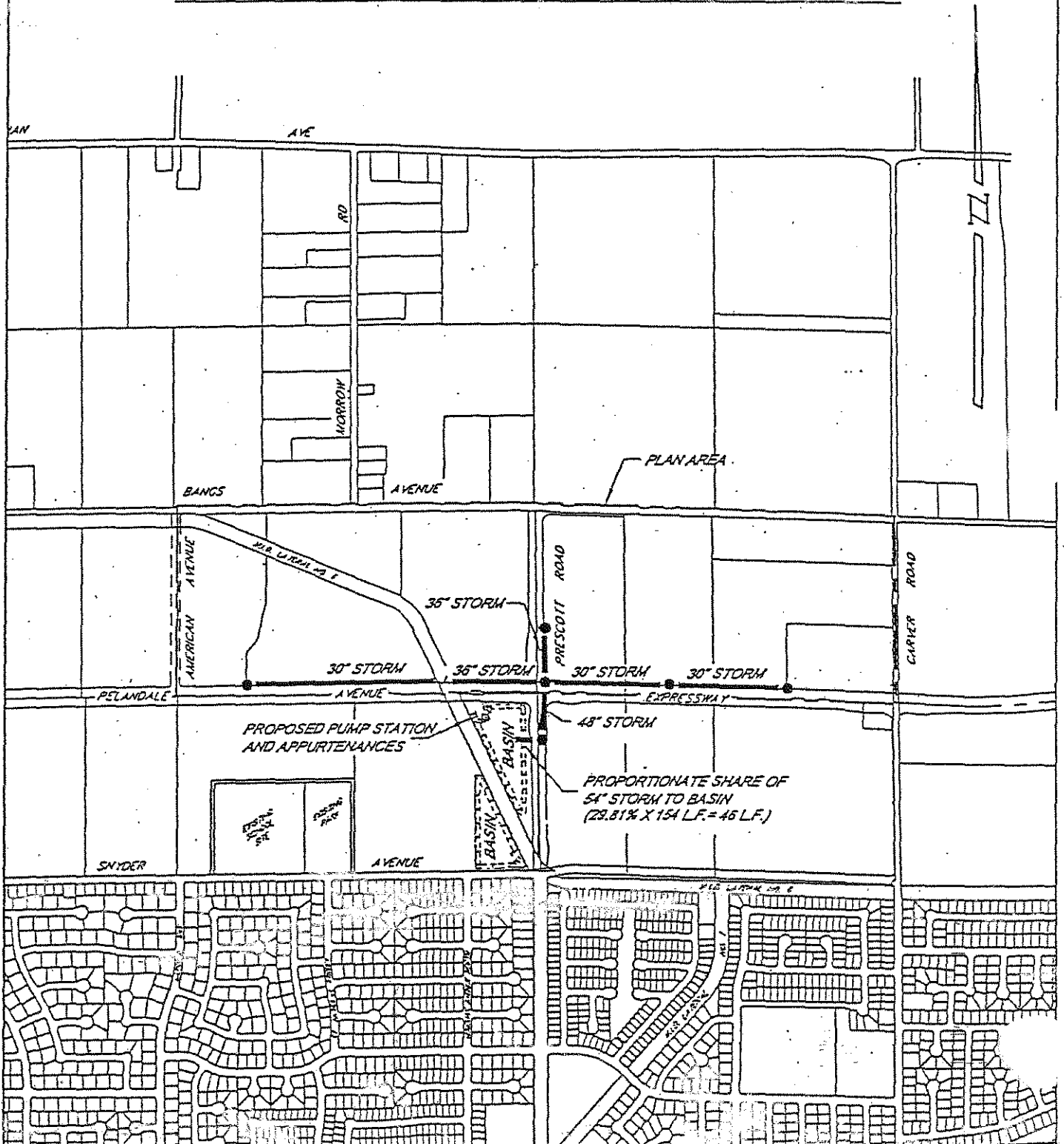
PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	
	509.26

B. CARVER / BANGS PROPORTIONATE SHARE

151.80 / 509.26 =	29.81%
-------------------	--------

- STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER AND CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 5, 1998 PREPARED BY MID-VALLEY ENGINEERING, INC.
- STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE DOW DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AREA GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

STORM DRAIN SYSTEM



PROPORTIONATE SHARE OF
54" STORM TO BASIN
(29.81% X 154 LF. = 46 LF.)

Drawn - J. FREITAS

Date 4-29-98

FIGURE 1



FAX (209) 526-0803

SHEET

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD (20' CFD PORTION)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,323' C.L. TO C.L.)
(REFERENCE FIGURE 2)

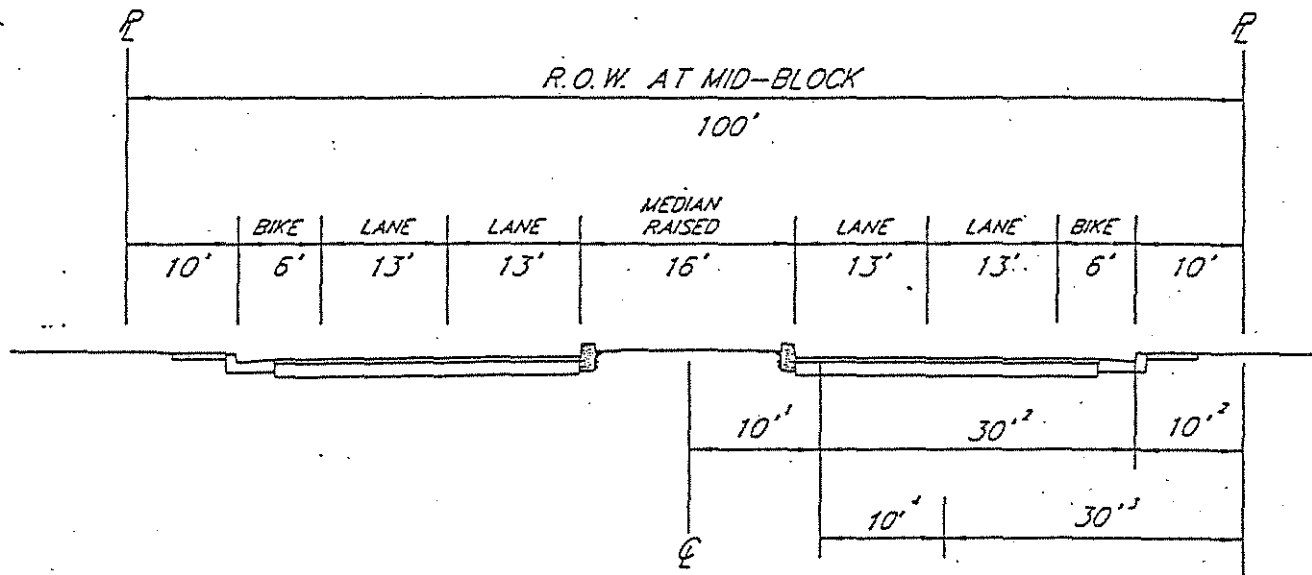
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (20' CFD PORTION)					
1.	CLEARING AND GRADING	24,675	SF	\$0.60	\$14,805
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	24,675	SF	\$2.00	\$49,350
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	200	LF	\$30.00	\$6,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	24,675	SF	\$0.02	\$494
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COST)	1	EST	\$3,207.75	\$3,208
CONSTRUCTION TOTAL =====>					\$81,856
15% CONTINGENCY =====>					\$12,278
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$94,135
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$5,648.08	\$5,648
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$2,824.04	\$2,824
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$3,765.39	\$3,765
TOTAL FEES =====>					\$12,238
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.57	AC	\$65,000.00	\$37,050
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$39,050
GRAND TOTAL =====>					\$145,422

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF PRESCOTT ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 2).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

PRESCOTT ROAD SECTION

(MID-BLOCK)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPER'S RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE CFF SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFF.

Drawn J.FREITAS
Date 4-29-98

FIGURE 2



FAX (209)
526-0803

SHEET

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE (2' CFD PORTION HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 3)

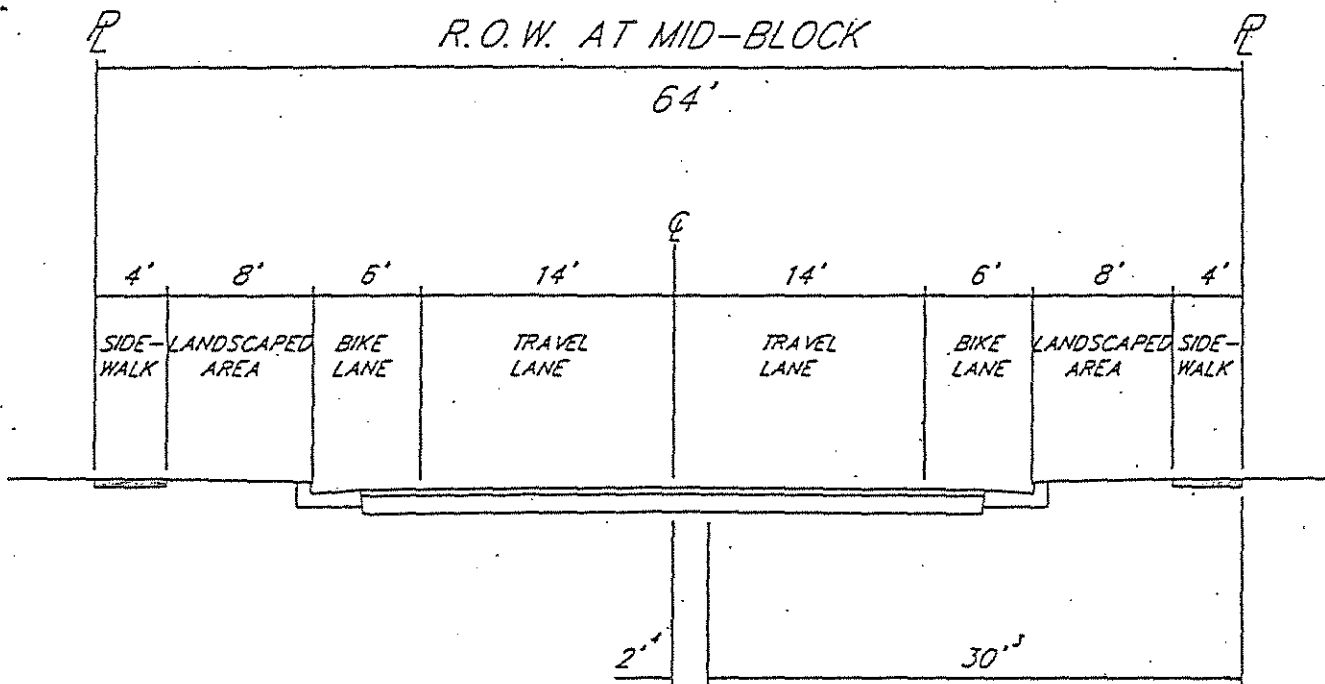
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	2,535	SF	\$0.35	\$887
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	2,535	SF	\$1.75	\$4,436
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	LUMP SUM	LS	\$100.00	\$100
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	LUMP SUM	LS	\$300.00	\$300
CONSTRUCTION TOTAL =====>					\$14,724
15% CONTINGENCY =====>					\$2,209
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$16,932
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST.	\$1,015.92	\$1,016
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST.	\$507.96	\$508
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST.	\$677.28	\$677
TOTAL FEES =====>					\$2,201
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.06	AC	\$65,000.00	\$3,900
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,000.00	\$1,000
TOTAL LAND ACQUISITION =====>					\$4,900
GRAND TOTAL =====>					\$24,033

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF AMERICAN AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 3).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

AMERICAN AVENUE SECTION

(MID-BLOCK-LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELHAM INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFF.

Drawn J.R.M.
Date 7-28-98

FIGURE 3



FAX (209) 526-0803
QUEST

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BANGS AVENUE (9' CFD PORTION, HALF SECTION ONLY)
FROM
AMERICAN AVENUE TO CARVER ROAD (5,350' C.L. TO C.L.)
(REFERENCE FIGURE 4)

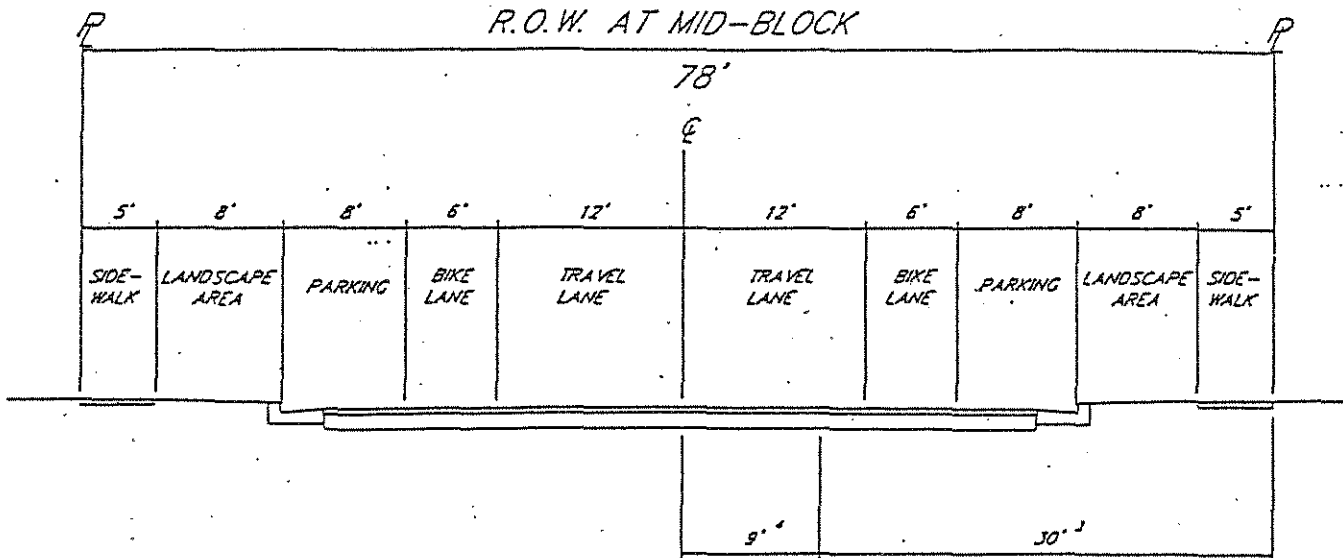
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (CFD PORTION)					
1.	CLEARING AND GRADING	48,150	SF	\$0.35	\$16,853
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	48,150	SF	\$1.75	\$84,263
3.	STORM DRAINAGE				
a.	CATCH BASINS	7	EA	\$1,000.00	\$7,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	350	LF	\$30.00	\$10,500
c.	MANHOLES	7	EA	\$2,000.00	\$14,000
4.	PRIME COAT	48,150	SF	\$0.02	\$963
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$5,055.75	\$5,056
CONSTRUCTION TOTAL =====>					\$138,634
15% CONTINGENCY =====>					\$20,795
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$159,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,565.73	\$9,566
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,782.86	\$4,783
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,377.15	\$6,377
TOTAL FEES =====>					\$20,726
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.11	AC	\$65,000.00	\$72,150
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$74,150
GRAND TOTAL =====>					\$254,305

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF BANGS AVENUE IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 4).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

BANGS AVENUE SECTION

(MID-BLOCK LOOKING EAST)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.R.W.

Date 7-28-98

FIGURE 4



FAX (209)
526-0803

SHEET

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CARVER ROAD (9' CFD PORTION, HALF SECTION ONLY)
FROM
PELANDALE AVENUE TO BANGS AVENUE
(REFERENCE FIGURE 5)

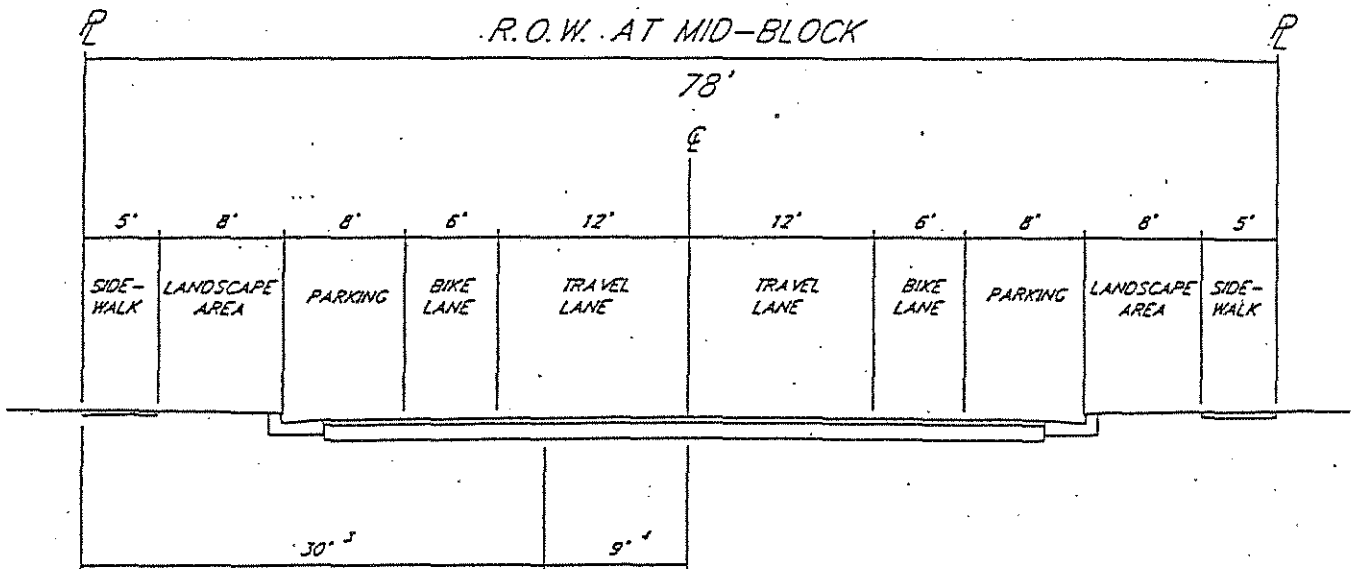
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION (6' CFD PORTION)					
1.	CLEARING AND GRADING	9,900	SF	\$0.35	\$3,465
2.	PAVEMENT (0.40' A.C. OVER 0.45' A.B., T.I. = 8 R.V. = 50)	9,900	SF	\$1.75	\$17,325
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	PRIME COAT	9,900	SF	\$0.02	\$198
5.	STRIPING / SIGNAGE (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$1,039.50	\$1,040
CONSTRUCTION TOTAL =====>					\$31,028
15% CONTINGENCY =====>					\$4,654
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$35,682
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,140.90	\$2,141
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,070.45	\$1,070
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,427.27	\$1,427
TOTAL FEES =====>					\$4,639
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.23	AC	\$65,000.00	\$14,950
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$16,950
GRAND TOTAL =====>					\$57,270

NOTES:

1. THE ABOVE ESTIMATE IS FOR THE PORTION OF CARVER ROAD IMPROVEMENTS WHICH IS ABOVE AND BEYOND A NORMAL CITY STANDARD COLLECTOR STREET (60' WIDE) AND WHICH IS NOT FUNDED THROUGH THE CITY'S CFF PROGRAM. (SEE FIGURE 5).
2. THE ABOVE ESTIMATE ONLY INCLUDES THE STORM DRAIN COSTS FOR THE CATCH BASINS, STORM DRAIN CATCH BASIN LATERALS AND STORM MANHOLES WHICH IS ASSUMED TO BE A PROPORTIONATE SHARE OF THE STORM IMPROVEMENTS. THE "MAINLINE" STORM DRAIN IMPROVEMENTS ARE TO BE INSTALLED BY ADJACENT DEVELOPMENT.

CARVER ROAD SECTION

(MID-BLOCK LOOKING NORTH)



NOTES:

1. BASED ON CITY POLICY, THE PORTION OF THE ROADWAY IMPROVEMENTS ABOVE AND BEYOND THE ADJACENT DEVELOPERS RESPONSIBILITY IS INCLUDED IN THE CFF PROGRAM. THE CFF PORTION GETS WIDER AS THE ROAD SECTION FLARES AT THE PRESCOTT/BANGS AND PRESCOTT/PELANDALE INTERSECTIONS.
2. BASED ON CITY POLICY, 40' OF IMPROVEMENTS ARE CONSTRUCTED BY THE ADJOINING DEVELOPMENT. THE 40' SECTION IS CONSTANT AT THE FLARED INTERSECTIONS.
3. THE STANDARD CITY CROSS SECTION FOR A MINOR COLLECTOR STREET IS 60' TOTAL. COLLECTOR STREETS ARE ENTIRELY CONSTRUCTED BY THE ADJOINING DEVELOPMENT.
4. THE REMAINING PORTION THAT IS NOT FUNDED BY THE CITY'S CFF PROGRAM AND IS NOT WITHIN THE STANDARD 60' MINOR COLLECTOR SECTION IS INCLUDED WITHIN THE CFD.

Drawn J.R.M.
Date 7-28-98

FIGURE 5



FAX (209)
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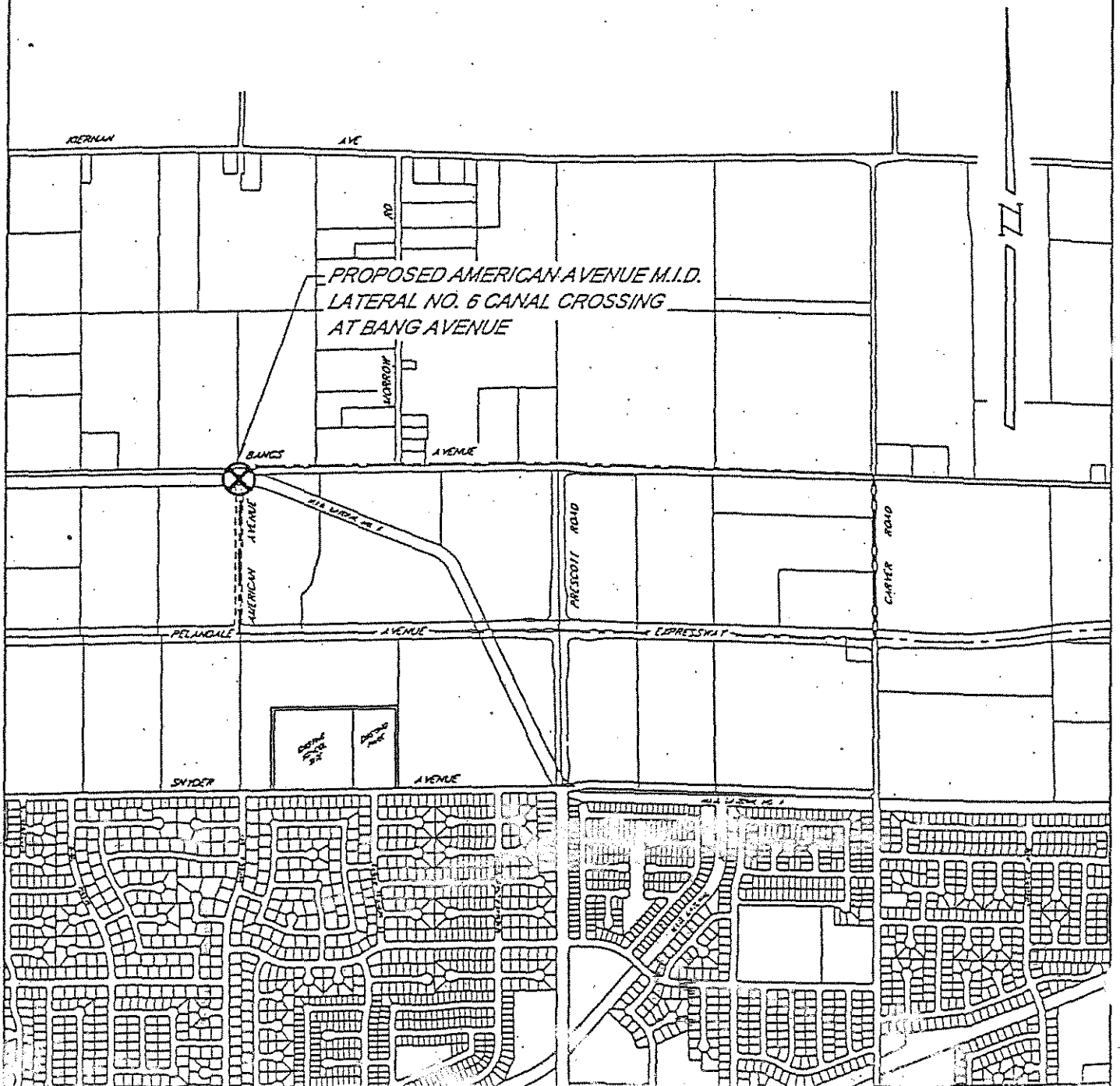
CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
AMERICAN AVENUE
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
CULVERT CROSSING AT BANGS AVENUE
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
A. CONSTRUCTION					
1.	CLEARING AND GRADING	LUMP SUM	LS	\$15,000.00	\$15,000
2.	EARTHWORK	LUMP SUM	LS	\$23,750.00	\$23,750
3.	CAST-IN-PLACE REINFORCED CONCRETE 4.5' x 12' DOUBLE BOX CULVERT	LUMP SUM	LS	\$125,000.00	\$125,000
4.	INLET STRUCTURE	1	EA	\$21,200.00	\$21,200
5.	OUTLET STRUCTURE	1	EA	\$21,200.00	\$21,200
6.	FENCING	LUMP SUM	LS	\$4,370.00	\$4,370
7.	UTILITY RELOCATION	1	EST	\$10,000.00	\$10,000
CONSTRUCTION TOTAL =====>					\$220,520
15% CONTINGENCY =====>					\$33,078
TOTAL CONSTRUCTION FOR AMERICAN AVENUE CULVERT CROSSING =====>					\$253,598
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,215.88	\$15,216
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,607.94	\$7,608
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,143.92	\$10,144
4.	GEOTECHNICAL	1	EST	\$5,000.00	\$5,000
5.	MID PERMITTING	1	EST	\$3,500.00	\$3,500
TOTAL FEES =====>					\$41,468
GRAND TOTAL =====>					\$295,066

NOTES:

1. THE ABOVE ESTIMATE INCLUDES THE COST TO INSTALL AN ULTIMATE CROSSING TO ACCOMMODATE THE 64' ULTIMATE AMERICAN AVENUE CROSS SECTION AS SHOWN ON EXHIBIT 4-5 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN.

M.I.D. LATERAL NO. 6 AMERICAN AVENUE CANAL CROSSING



Drawn J.FREITAS
Date 4-29-98

FIGURE 6



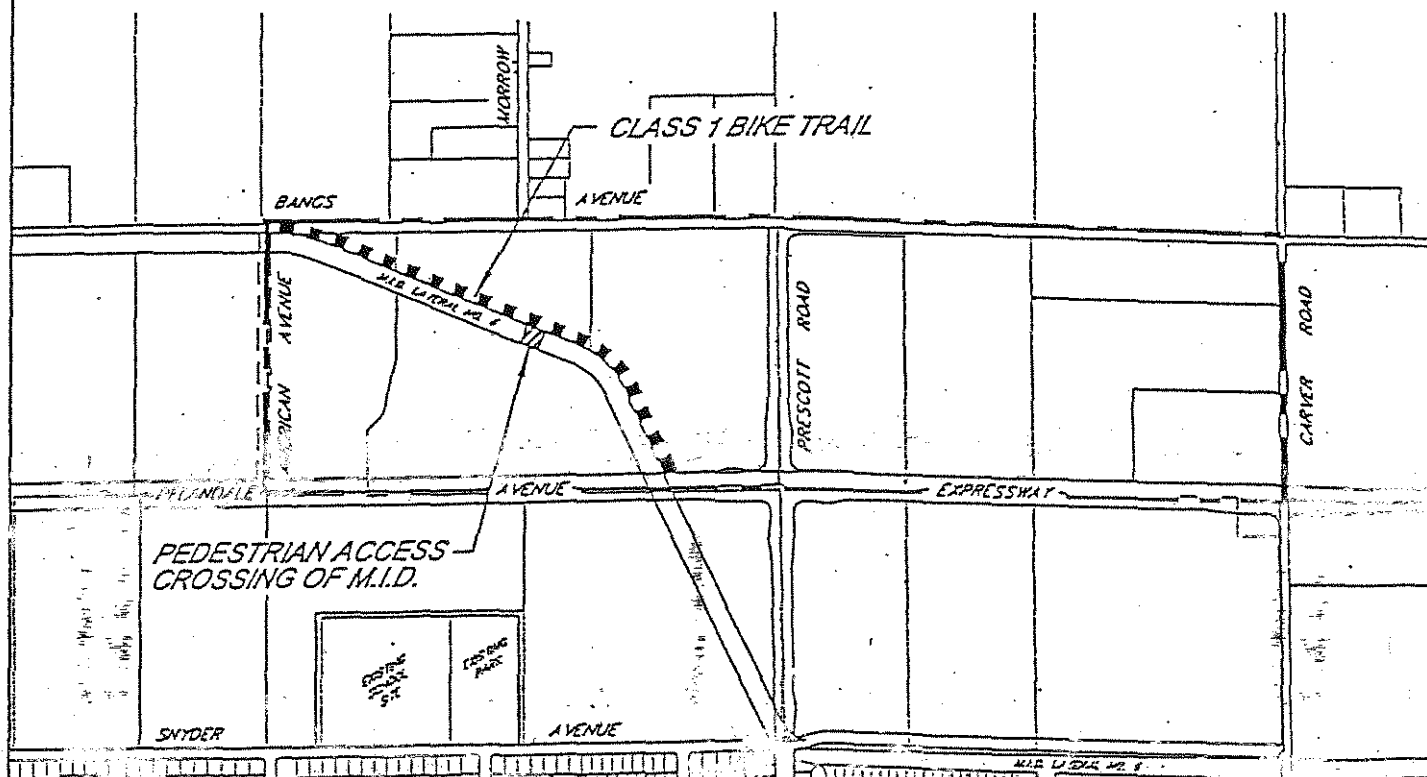
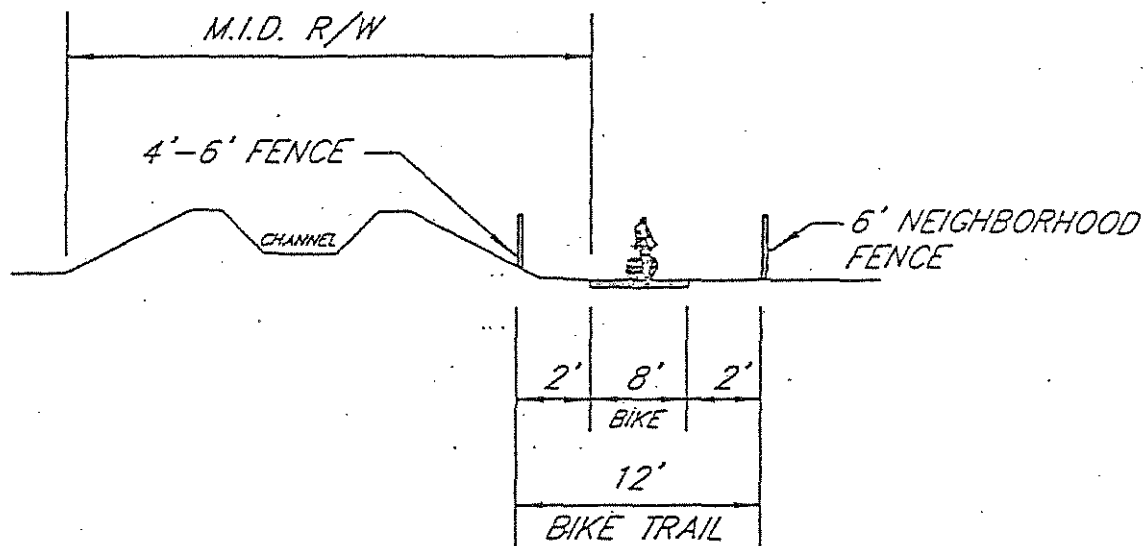
FAX (209)
526-0803

SHEET

CARVER-BANGS SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
CLASS I BIKE TRAIL
AND
PEDESTRIAN ACCESS CROSSING OF
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
(REFERENCE FIGURE 7)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 12' BIKE TRAIL SYSTEM (8' PATH WITH TWO-2' SHOULDER AREAS) IN ACCORDANCE WITH EXHIBIT 4-7 OF THE ADOPTED CARVER BANGS SPECIFIC PLAN				
2.	TOTAL LENGTH 2180 L.F. OR 0.413 MILES				
3.	THE CITY'S CFF PROGRAM HAS THE FOLLOWING CLASS I BIKE TRAIL COSTS INCLUDED:				
	<u>Existing CFF Portion</u>				
	0.413 Miles x \$105,600 =				\$43,613
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH	17,440	SF	\$2.00	\$34,880
2.	2' GRAVEL SHOULDER EACH SIDE (2" DECOMPOSED GRANITE)	8,720	SF	\$0.30	\$2,616
3.	4-6' FENCE	2,180	LF	\$16.00	\$34,880
4.	PEDESTRIAN ACCESS CROSSING	LUMP SUM	LS	\$50,000.00	\$50,000
					CONSTRUCTION TOTAL =====>
					\$122,376
					10% CONTINGENCY =====>
					\$12,238
					TOTAL BIKE PATH =====>
					\$134,614
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$8,076.82	\$8,077
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,038.41	\$4,038
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,384.54	\$5,385
					TOTAL FEES =====>
					\$17,500
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION (10' WIDE; ASSUME 2' JOINT USE OF EXISTING MID RIGHT-OF-WAY)	0.50	AC	\$65,000.00	\$32,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$1,500.00	\$1,500
					TOTAL LAND ACQUISITION =====>
					\$34,000
					GRAND TOTAL =====>
					\$186,113
					CFF PORTION =====>
					\$43,613

CLASS 1 BIKE PATH / PEDESTRIAN ACCESS CROSSING OF M.I.D. NO.6



Drawn J.R.M.
Date 7-28-98

FIGURE 7



Page (209)
526-0803

PELANDALE-SNYDER
(TAX AREA B)

DETAILED FACILITY COST ESTIMATES

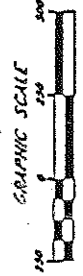
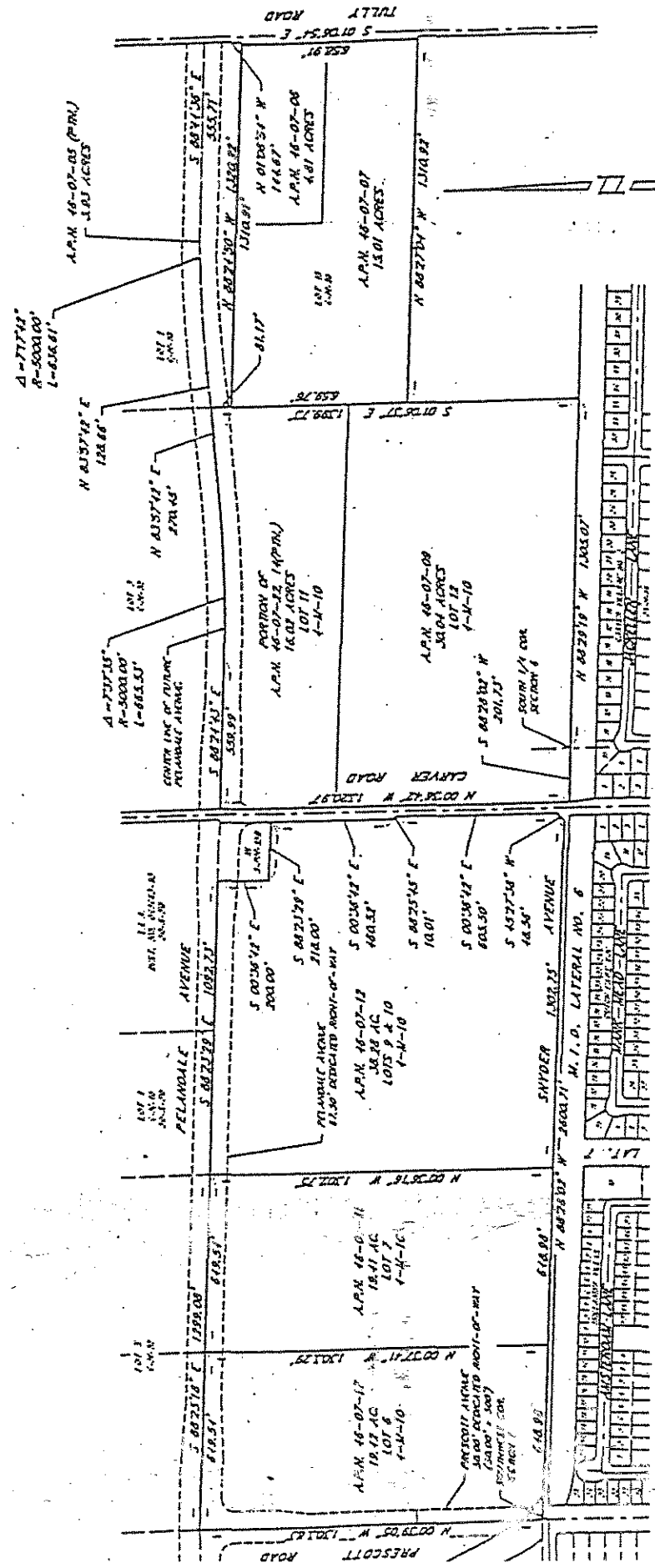
PELANDALE / SNYDER SPECIFIC PLAN AREA (TAX AREA B)
COMMUNITY FACILITIES
DISTRICT FORMATION
COST SUMMARY

A. STORM DRAINAGE	\$4,389,042 <u>\$4,000,232</u>
B. DALE ROAD	\$531,075
C. PRESCOTT ROAD	\$628,297
D. TULLY ROAD	\$1,011,016
E. SNYDER AVENUE	\$504,283 <u>\$527</u>
F. CLASS I BIKE TRAIL	\$752,675
G. FORMATION COSTS	\$67,500
	<hr/>
TOTAL CFD COSTS ==>	<u>\$7,043,538</u> # 7,883,888

NOTE:

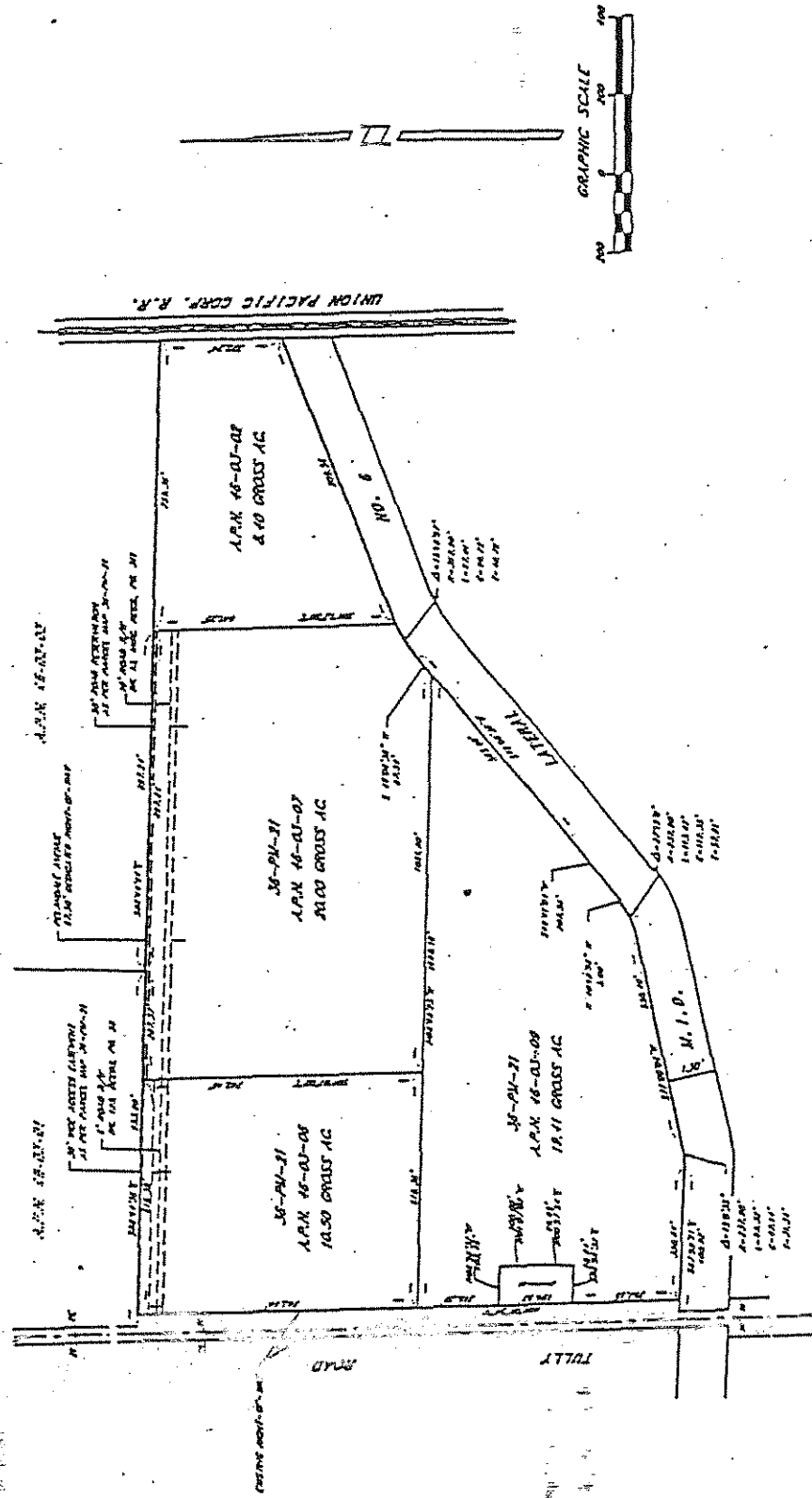
1. THE ABOVE TOTAL COSTS DO NOT INCLUDE THE ANNUAL LANDSCAPE MAINTENANCE COSTS FOR THE PLAN AREA. THE ANNUAL LANDSCAPE MAINTENANCE AND ADMINISTRATION COSTS ARE ESTIMATED AT \$852 PER NET ACRE.
2. FINAL BID QUANTITIES MAY INCLUDE MORE DETAILED LINE ITEMS WHICH SHALL BE ALL INCLUSIVE WITHIN LUMP SUM AMOUNTS OR QUANTITIES SHOWN IN THIS DOCUMENT.

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



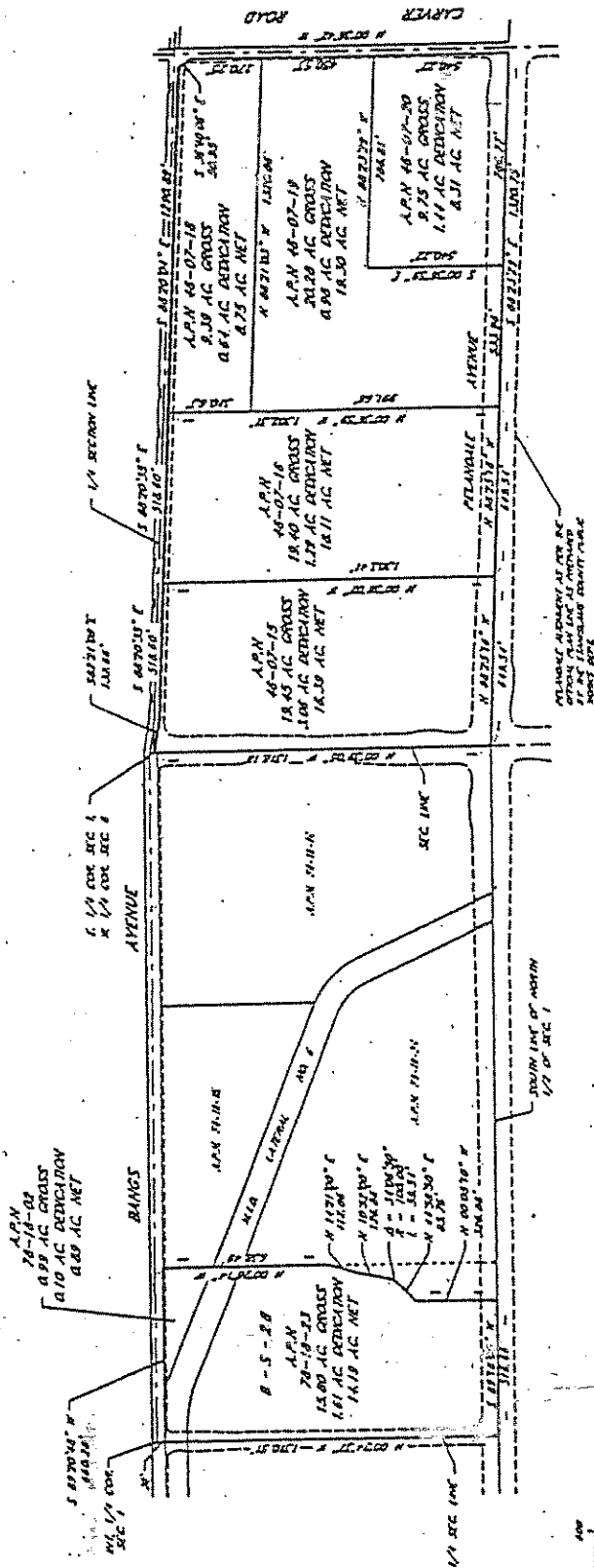
LAND PLANNING • ENGINEERING • SURVEYING
 100 N THIRD ST. SUITE 201 • SAN JOSE, CA 95131 • TEL: 408.297.1100

PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
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 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



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PROPOSED BOUNDARIES OF
 COMMUNITY FACILITIES DISTRICT NO. 1998-2
 (CARVER-BANGS/PELANDALE-SNYDER)
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LAND PLANNING • ENGINEERING • SURVEYING
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PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
STORM DRAIN TRUNK LINES
AND
PROPORTIONATE SHARE OF
STORM DRAIN BASIN AND APPURTENANCES
(REFERENCE FIGURE 1)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. STORM DRAIN TRUNK LINES</u>					
<u>A. CONSTRUCTION</u>					
1.	36" STORM	400	LF	\$121.00	\$48,400
2.	42" STORM	1,874	LF	\$155.00	\$290,470
3.	48" STORM	3,661	LF	\$161.00	\$589,421
4.	54" STORM	5,242	LF	\$182.00	\$954,044
5.	PROPORTIONATE SHARE 54" TO BASIN	108	LF	\$182.00	\$19,656
6.	MANHOLES	29	EA	\$5,750.00	\$166,750
SUB-TOTAL STORM DRAIN TRUNK LINES =====>					\$2,068,741
10% CONTINGENCY =====>					\$206,874
TOTAL CONSTRUCTION - STORM DRAIN TRUNK LINES =====>					\$2,275,615
<u>II. STORM DRAINAGE BASIN FACILITIES</u>					
<u>B. CONSTRUCTION</u>					
1.	STORM DRAIN BASIN EXCAVATION	100,372	CY	\$6.00	\$602,232
2.	STORM DRAIN PUMP STATION	LUMP SUM	LS	\$389,555.00	\$389,555
3.	STORM DRAIN PIPING (PLUS JACK & BORE)	LUMP SUM	LS	\$21,057.00	\$21,057
4.	FENCING	2,890	LF	\$16.00	\$46,240
5.	LANDSCAPING	13,170	SF	\$2.80	\$36,876
6.	INLETS	LUMP SUM	LS	\$7,019.00	\$7,019
6.	CLEARING / DISCING / STRIPPING	LUMP SUM	LS	\$7,019.00	\$7,019
SUB-TOTAL					\$1,109,998

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. FEES					
1.	ENGINEERING	1	EST	\$70,192.00	\$70,192
2.	STAKING	1	EST	\$34,746.00	\$34,746
3.	CONSTRUCTION MANAGEMENT	1	EST	\$46,796.00	\$46,796
4.	GEOTECHNICAL	1	EST	\$12,635.00	\$12,635
TOTAL FEES ==>					\$164,369
D. LAND ACQUISITION					
1.	LAND PURCHASE	70.39% OF TOTAL COST OF \$1,030,239 =			\$725,185
2.	ADMINISTRATION	LUMP SUM - LS		\$2,875.00	\$2,875
TOTAL LAND ACQUISITION ==>					\$728,060
PELANDALE - SNYDER STORM DRAIN FACILITIES TOTAL ==>					\$4,389,042

NOTES:

1. THE PELANDALE-SNYDER PROPORTIONATE SHARE OF THE STORM DRAIN BASIN AND APPURTENANCES WAS DERIVED FROM A PER GROSS ACRE SHARE. THE FOLLOWING REPRESENT THE FORMULA USED FOR CONSTRUCTION AND FEES:

A. GROSS ACREAGE SUMMARY

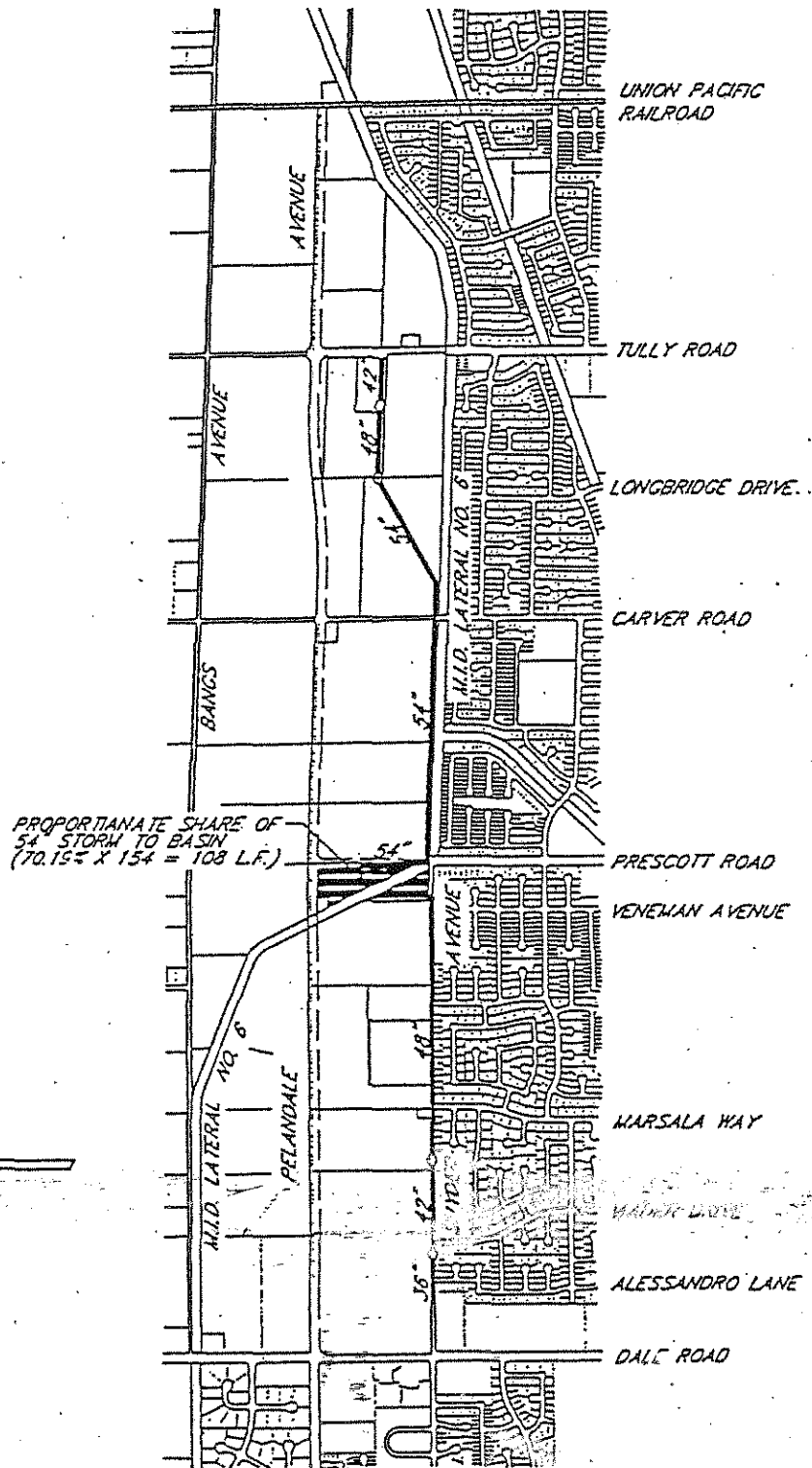
PELANDALE / SNYDER	357.46
CARVER / BANGS	151.80
TOTAL GROSS ACRES ==>	509.26

B. PELANDALE / SNYDER PROPORTIONATE SHARE

$357.46 / 509.26 =$	70.19%
---------------------	--------

2. STORM DRAIN TRUNK LINE AND BASIN SIZING WERE TAKEN FROM THE PELANDALE-SNYDER A CARVER-BANGS STORM DRAINAGE SYSTEM PLANS DATED AUGUST 6, 1993 PREPARED BY MID VALLEY ENGINEERING, INC.
3. STORM DRAIN BASIN EXCAVATION INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING: PIPE D DRAINS, SPLASH PADS, LOW FLOW CHANNEL AND ROCK TRENCH, A.C. PAVING, DISPOSAL AND GROUND PREPARATION, 6" A.C. BERMS, AND REMOVAL OF EXISTING IRRIGATION LINES.

BACKBONE STORM DRAIN SYSTEM



Drawn J.M.M.
Date 8-13-98

FIGURE 1



FVA (209)
515-0803
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PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
DALE ROAD (CENTER 20' C.L. TO C.L.)
AND EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS
SNYDER AVENUE TO PELANDALE AVENUE (1,350' C.L. TO C.L.)
(REFERENCE FIGURE 2)

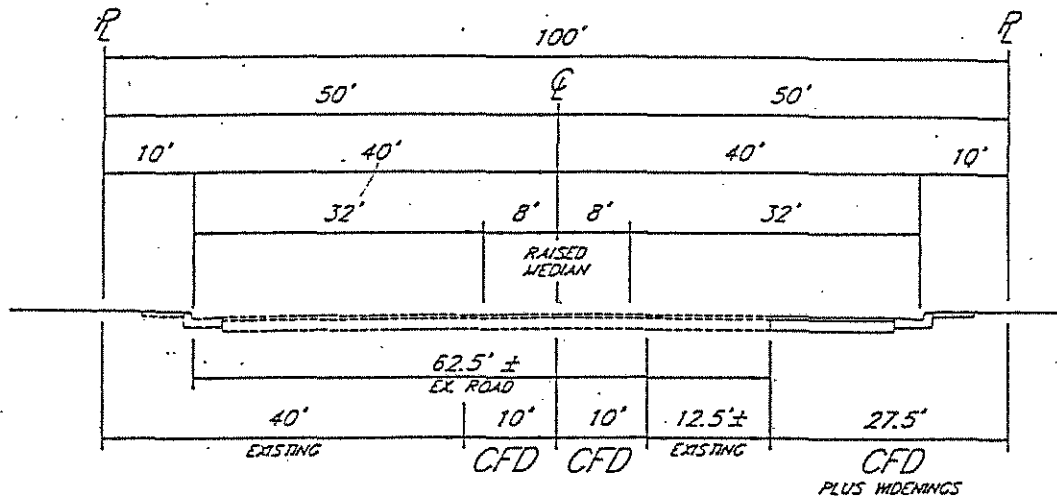
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
<u>I. DALE ROAD CENTER 20 FEET</u>					
<u>A. CONSTRUCTION</u>					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	26,400	SF	\$1.50	\$39,600
2.	MEDIAN CURB	2,690	LF	\$15.00	\$40,350
3.	MEDIAN COVER	17,520	SF	\$3.50	\$61,320
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10; R.V. = 50)	5,280	SF	\$2.00	\$10,560
5.	STRIPING	LUMP SUM	LS	\$5,000.00	\$5,000
CONSTRUCTION TOTAL =====>					\$156,830
10% CONTINGENCY =====>					\$15,683
TOTAL DALE ROAD CONSTRUCTION =====>					\$172,513
<u>B. FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$10,350.78	\$10,351
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$5,175.39	\$5,175
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,900.52	\$6,901
TOTAL FEES =====>					\$22,427
DALE ROAD CENTER 20 FEET GRAND TOTAL =====>					\$194,940

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

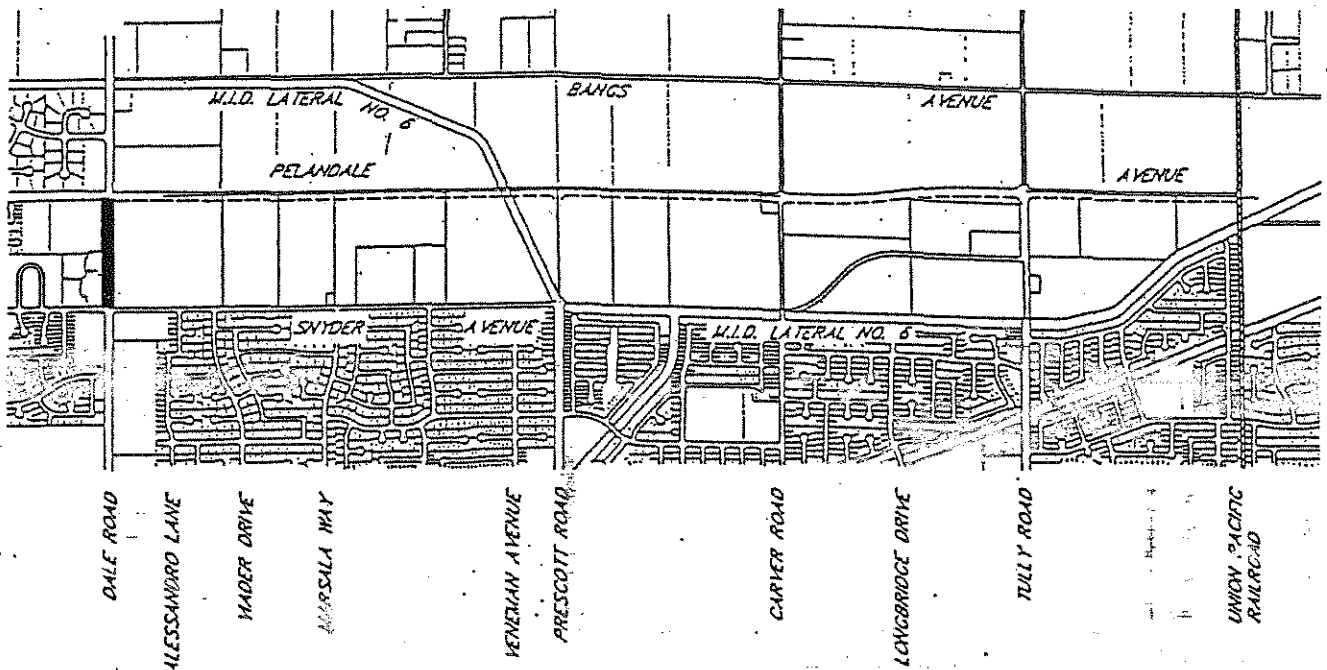
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. EAST SIDE DALE ROAD FRONTAGE IMPROVEMENTS					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	30,492	SF	\$0.60	\$18,295
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	22,104	SF	\$2.00	\$44,208
3.	STORM DRAINAGE				
a.	12" STORM DRAIN	800	LF	\$30.00	\$24,000
b.	15" STORM DRAIN	420	LF	\$37.00	\$15,540
c.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
d.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
e.	MANHOLES	2	EA	\$2,000.00	\$4,000
4.	10' SIDEWALK WITH TREETWELL AND VINE BLOCKOUTS	12,300	SF	\$3.00	\$36,900
5.	6" VERTICAL CURB AND GUTTER	1,230	LF	\$9.00	\$11,070
6.	RETURN AT PELANDALE AVENUE	1	EA	\$1,000.00	\$1,000
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,760	SF	\$2.80	\$41,328
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COSTS)	1	EST	\$3,125.16	\$3,125
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$4,500.00	\$4,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,230	LF	\$10.00	\$12,300
12.	PRIMECOAT	22,104	SF	\$0.02	\$442
CONSTRUCTION TOTAL =====>					\$232,208
10% CONTINGENCY =====>					\$23,221
TOTAL DALE ROAD CONSTRUCTION =====>					\$255,429
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,325.76	\$15,326
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,662.88	\$7,663
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,217.17	\$10,217
TOTAL FEES =====>					\$33,206
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.70	AC	\$65,000.00	\$45,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$47,500
DALE ROAD FRONTAGE GRAND TOTAL =====>					\$336,135
DALE ROAD GRAND TOTAL =====>					\$531,025

NOTE:

DALE ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.R.M.
Date 8-13-98

FIGURE 2



FAX (209) 526-0803

SHEET

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
PRESCOTT ROAD
WEST SIDE FRONTAGE IMPROVEMENTS ADJACENT
TO STORM DRAIN BASIN
AND EAST SIDE FRONTAGE IMPROVEMENTS
PELANDALE AVENUE TO SNYDER AVENUE (1,316' C.L. TO C.L.)
(REFERENCE FIGURE 3)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. PRESCOTT ROAD WEST SIDE FRONTAGE IMPROVEMENTS (ADJACENT TO STORM DRAIN BASINS)					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	18,525	SF	\$2.00	\$37,050
3.	2" A.C. OVERLAY (EXISTING INTERIM PRESCOTT)	17,100	SF	\$0.60	\$10,260
4.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
5.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
6.	10' SIDEWALK	12,000	SF	\$3.00	\$36,000
7.	RETURNS	2	EA	\$1,000.00	\$2,000
8.	ELECTROLIERS	4	EA	\$3,500.00	\$14,000
9.	PRIMECOAT	18,525	SF	\$0.02	\$371
					\$139,999
					10% CONTINGENCY =====> \$14,000
					TOTAL PRESCOTT ROAD CONSTRUCTION =====> \$153,998
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$9,239.90	\$9,240
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$4,619.95	\$4,620
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$6,159.93	\$6,160
					TOTAL FEES =====> \$20,020
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.20	AC	\$65,000.00	\$78,000
2.	RIGHT-OF-WAY ADMINISTRATION		LUMP SUM	\$2,000.00	\$2,000
					TOTAL LAND ACQUISITION =====> \$80,000

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

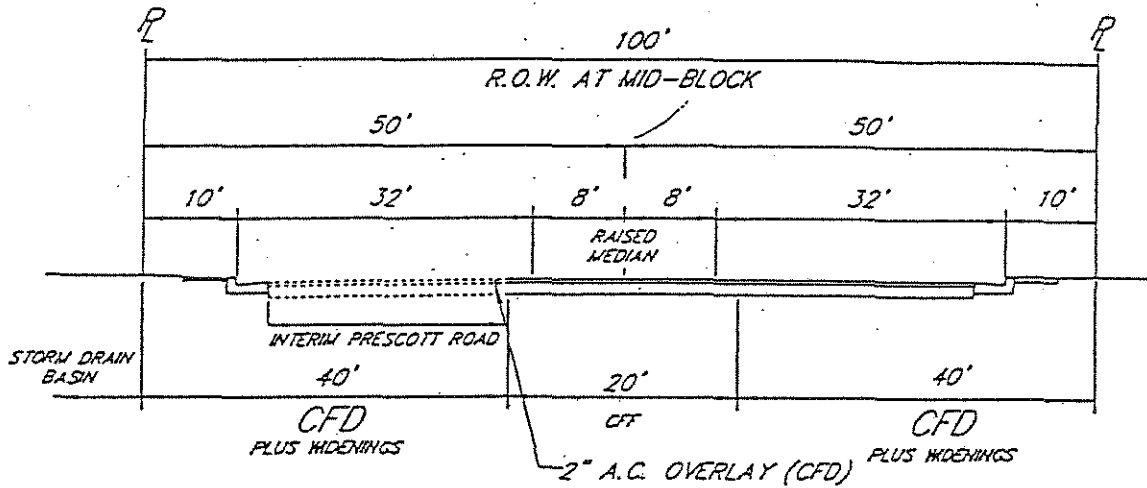
ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. <u>PRESCOTT ROAD EAST SIDE FRONTAGE IMPROVEMENTS</u>					
A. <u>CONSTRUCTION</u>					
1.	CLEARING AND GRADING	37,530	SF	\$0.60	\$22,518
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10 R.V. = 50)	41,400	SF	\$2.00	\$82,800
3.	STORM DRAINAGE				
a.	CATCH BASINS	2	EA	\$1,000.00	\$2,000
b.	12" CATCH BASIN RUNS	100	LF	\$30.00	\$3,000
c.	MANHOLES	1	EA	\$2,000.00	\$2,000
4.	6" VERTICAL CURB AND GUTTER	1,200	LF	\$9.00	\$10,800
5.	10' SIDEWALK WITH TREEWELL AND VINE BLOCKOUTS	12,000	SF	\$3.00	\$36,000
6.	RETURNS	4	EA	\$800.00	\$3,200
7.	ELECTROLIERS	3	EA	\$3,500.00	\$10,500
8.	LANDSCAPING (12' WIDE STRIP)	14,400	SF	\$2.80	\$40,320
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST).	1	EST	\$5,265.90	\$5,266
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$2,500.00	\$2,500
11.	TRAFFIC SIGNAL INTERCONNECT	1,200	LF	\$10.00	\$12,000
12.	PRIMECOAT	41,400	SF	\$0.02	\$828
CONSTRUCTION TOTAL =====>					\$233,732
10% CONTINGENCY =====>					\$23,373
TOTAL PRESCOTT ROAD CONSTRUCTION =====>					\$257,105
B. <u>FEES</u>					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,426.31	\$15,426
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,713.15	\$7,713
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,284.20	\$10,284
TOTAL FEES =====>					\$33,424
C. <u>LAND ACQUISITION</u>					
1.	RIGHT-OF-WAY DEDICATION	1.25	AC	\$65,000.00	\$81,250
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$83,750
PRESCOTT ROAD EAST SIDE FRONTAGE TOTAL =====>					\$374,279
PRESCOTT ROAD GRAND TOTAL =====>					\$628,297

Pelandale-Snyder Specific Plan Area
Community Facilities District
Preliminary Engineer's Estimate
October 23, 1998

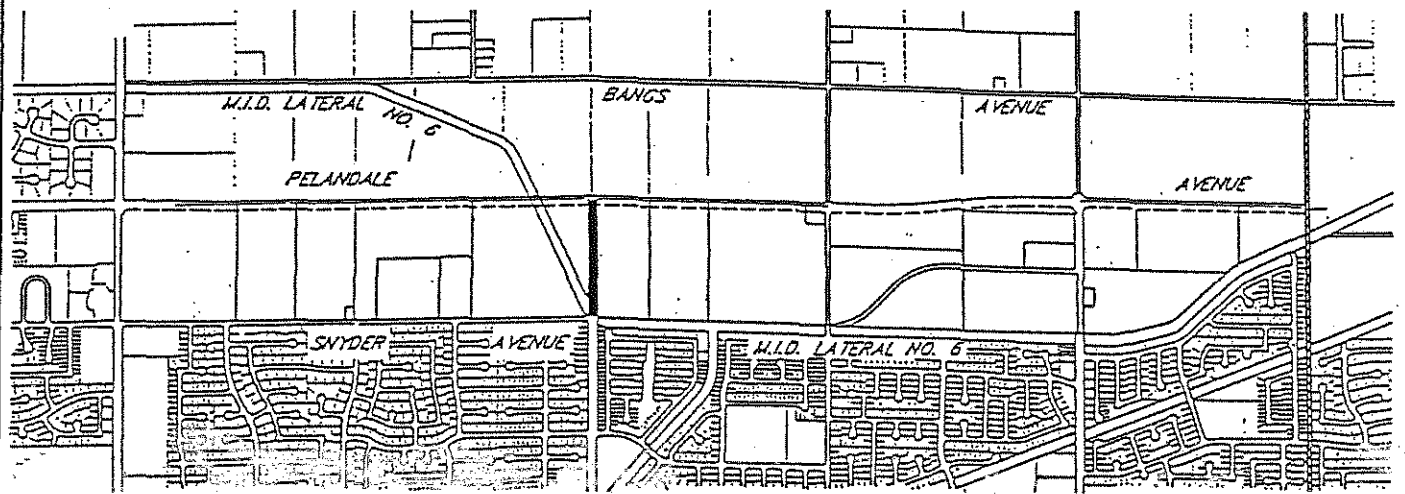
NOTES:

1. THE ABOVE ESTIMATE ASSUMES THE PHASE 1A INTERIM PELANDALE AVENUE WILL BE CONSTRUCTED ON THE WEST SIDE OF PRESCOTT AND A PORTION OF THE IMPROVEMENTS (APPROXIMATELY 650 L.F. FROM THE SNYDER INTERSECTION) WILL BE REMOVED FOR THE ULTIMATE IMPROVEMENTS. THE REMAINING INTERIM SECTION IS ASSUMED TO REMAIN AND BE OVERLAYED WITH 2" A.C.
2. THE ABOVE ESTIMATE DOES NOT INCLUDE THE CENTER 20' PORTION OF PRESCOTT ROAD SINCE IT IS INCLUDED IN THE CFF PROGRAM.
3. THE ABOVE ESTIMATE DOES NOT INCLUDE THE MAINLINE STORM DRAIN IMPROVEMENTS SINCE THOSE COSTS ARE INCLUDED WITH THE STORM DRAIN COMPONENT OF THE CFD.
4. THE ABOVE ESTIMATE INCLUDES ALL NECESSARY CATCH BASINS. THIS CATCH BASIN ESTIMATE WAS TAKEN DIRECTLY FROM THE APPROVED "ALMOND VALLEY SUBDIVISION" IMPROVEMENT PLANS.
5. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY.

PRESCOTT ROAD



SNYDER AVENUE TO PELANDALE AVENUE



Drawn J.P.M.
Date 8-13-98

FIGURE 3



SAD (209)
526-0803
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PELANDALE-SNYDER-SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES)
FROM EXISTING
MODESTO IRRIGATION DISTRICT LATERAL NO. 6
TO PELANDALE AVENUE (1,450' C.L. TO C.L.)
TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF
AND
TULLY / SNYDER TRAFFIC SIGNAL
(REFERENCE FIGURE 4)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. TULLY ROAD FRONTAGE IMPROVEMENTS (BOTH SIDES, 114 FOOT RIGHT-OF-WAY)					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	87,245	SF	\$0.60	\$52,347
2.	PAVEMENT (0.50' A.C. OVER 0.65' A.B., T.I. = 10, R.V. = 50)	81,410	SF	\$2.00	\$162,820
3.	STORM DRAINAGE				
a.	CATCH BASINS	4	EA	\$1,000.00	\$4,000
b.	12" STORM DRAIN	600	LF	\$30.00	\$18,000
c.	12" CATCH BASIN RUNS	200	LF	\$30.00	\$6,000
d.	MANHOLES	3	EA	\$2,000.00	\$6,000
4.	6" VERTICAL CURB AND GUTTER	2,432	LF	\$9.00	\$21,888
5.	10' SIDEWALK	24,320	SF	\$3.00	\$72,960
6.	REMOVE EXISTING CURB, GUTTER AND SIDEWALK ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD	717	LF	\$20.00	\$14,340
7.	CLEARING, GRADING AND DEMOLITION ALONG EXISTING IMPROVEMENTS EAST SIDE OF TULLY ROAD (LANDSCAPING, IRRIGATION, ETC.)	LUMP SUM	LS	\$20,000.00	\$20,000
8.	ELECTROLIERS	9	EA	\$3,500.00	\$31,500
9.	SIGNAGE AND STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$10,758.35	\$10,758
10.	TRAFFIC CONTROL	LUMP SUM	LS	\$7,000.00	\$7,000
11.	TRAFFIC-SIGNAL INTERCONNECT (ONE SIDE ONLY)	1,400	LF	\$10.00	\$14,000
12.	RELOCATE OVERHEAD POWER LINES	4	EA	\$7,000.00	\$28,000
13.	LANDSCAPING (12' WIDE STRIP BOTH SIDES)	36,996	SF	\$2.80	\$103,589
14.	PRIMECOAT	81,410	SF	\$0.02	\$1,628
CONSTRUCTION TOTAL =====>					\$574,830
15% CONTINGENCY =====>					\$86,225

Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$39,663.29	\$39,663
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$19,831.65	\$19,832
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$26,442.20	\$26,442
TOTAL FEES =====>					\$85,937
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.776	AC	\$65,000.00	\$50,440
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,000.00	\$2,000
TOTAL LAND ACQUISITION =====>					\$52,440
TOTAL TULLY ROAD FRONTAGE =====>					\$799,432
II. TULLY ROAD (CENTER 34 FEET) NOT FUNDED BY CFF					
A. CONSTRUCTION					
1.	SAWCUT AND REMOVE EXISTING PAVEMENT	27,360	SF	\$1.50	\$41,040
2.	MEDIAN CURB	3,090	LF	\$15.00	\$46,350
3.	MEDIAN LANDSCAPING	23,120	SF	\$3.50	\$80,920
4.	PAVEMENT (0.50' A.C. OVER 0.65' A.B.; T.I. = 10, R.V. = 50)	27,360	SF	\$2.00	\$54,720
5.	STRIPING	LUMP SUM	LS	\$6,000.00	\$6,000
CONSTRUCTION TOTAL =====>					\$229,030
10% CONTINGENCY =====>					\$22,903
TOTAL CONSTRUCTION FOR TULLY ROAD CENTER 34' FEET =====>					\$251,933
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$15,115.98	\$15,116
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$7,557.99	\$7,558
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$10,077.32	\$10,077
TOTAL FEES =====>					\$32,751
TOTAL TULLY ROAD CENTER 34 FEET =====>					\$284,684
TOTAL AMOUNT FUNDED BY CFF =====>					\$220,000
TOTAL TULLY ROAD (CENTER 34 FEET) FUNDED BY PELANDALE-SNYDER CFD =====>					\$64,684

III. TRAFFIC SIGNAL AT TULLY ROAD AND SNYDER AVENUE

A. CONSTRUCTION

LUMP SUM \$120,000.00 \$120,000

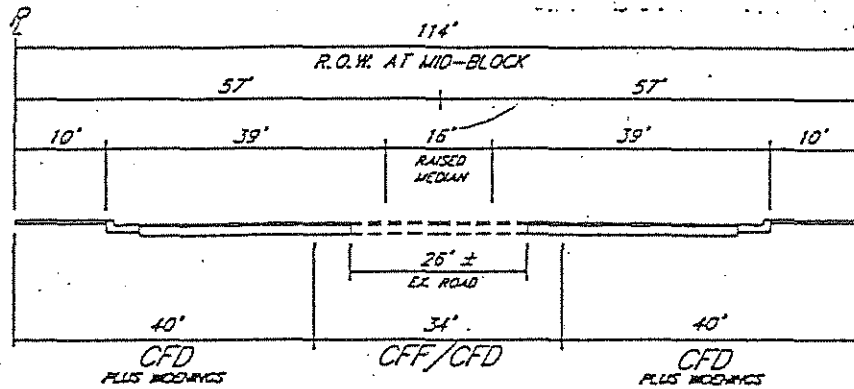
Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
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ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$7,800.00	\$7,800
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$3,900.00	\$3,900
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$5,200.00	\$5,200
TOTAL FEES =====>					\$16,900
TOTAL TRAFFIC SIGNAL TULLY AND SNYDER =====>					\$146,900
TULLY ROAD GRAND TOTAL =====>					\$1,011,016

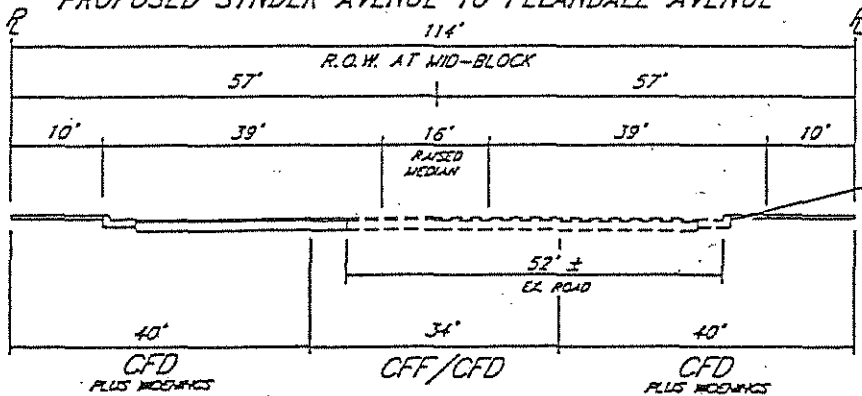
NOTES:

1. THIS ESTIMATE ITEM II IS FOR THE ENTIRE COST OF THE CENTER 34 FEET OF TULLY ROAD IMPROVEMENTS. THE CENTER 34 FEET OF IMPROVEMENTS ON TULLY ROAD ARE FUNDED BY THE CFF PROGRAM, HOWEVER, THE FUNDS ARE NOT AVAILABLE FOR THE ENTIRE PROJECT SO A PORTION OF THE PROJECT NOT FUNDED BY CFF WILL BE FUNDED BY THE PELANDALE-SNYDER CFD.
2. THIS ESTIMATE IS BASED ON THE ASSUMPTION THAT THE CENTER 26+/- FEET OF EXISTING PAVEMENT WILL REMAIN AND ADJACENT DEVELOPMENT WILL BE REQUIRED TO MATCH EXISTING PAVEMENT.
3. THE ABOVE COST ESTIMATE INCLUDES THE COST FOR IMPROVEMENTS FROM THE NORTH SIDE OF THE MODESTO IRRIGATION DISTRICT LATERAL TO PELANDALE AVENUE.
4. THE TULLY ROAD IMPROVEMENTS INCLUDE A COST TO REMOVE AND REPLACE THE EXISTING IMPROVEMENTS ALONG THE BIG VALLEY GRACE COMMUNITY CHURCH FRONTAGE (50' EXISTING TO 57' CITY STANDARD) TO BRING THE CROSS SECTION TO CITY STANDARD. HOWEVER, SPECIFIC DECELERATION OR ACCELERATION LANES WHICH ARE SITE SPECIFIC IMPROVEMENTS ARE NOT INCLUDED IN THE ESTIMATE.
5. THE RIGHT-OF-WAY COSTS ARE THE REQUIRED DEDICATIONS FOR RIGHT OF WAY BEYOND THE ALREADY EXISTING DEDICATIONS.
6. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY

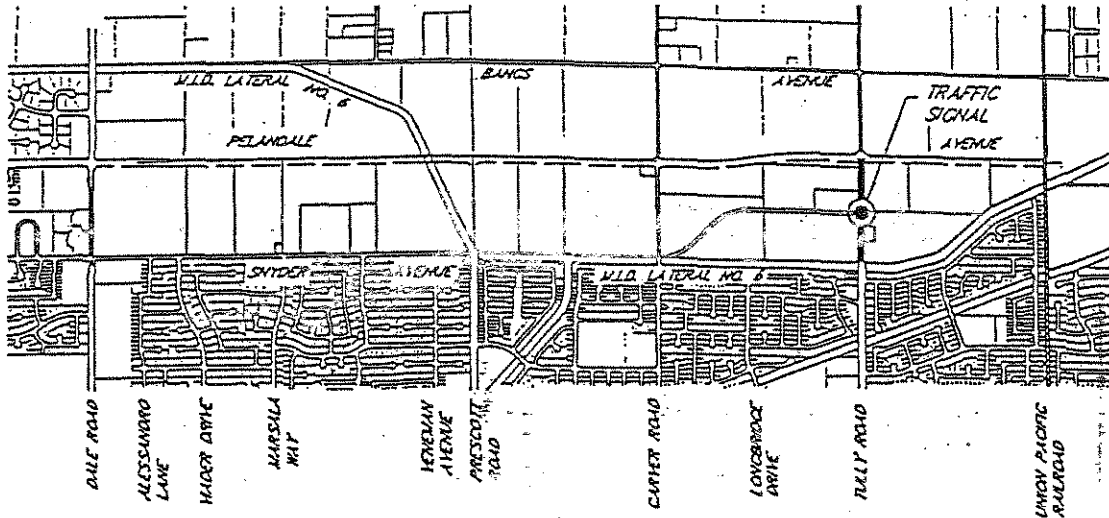
TULLY ROAD



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
 PROPOSED SYNDER AVENUE TO PELANDALE AVENUE



NOTE: MATCH EXISTING PAVEMENT PER CITY STANDARDS
 M.I.D. LATERAL NO. 6 TO PROPOSED SYNDER AVENUE



Drawn J.R.M.

Date 9-13-98

FIGURE 4



FAX (209) 526-0803

SHEET

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
SNYDER AVENUE
NORTH SIDE ADJACENT TO STORM DRAIN BASIN,
WEST OF PRESCOTT ROAD (352'), SOUTH SIDE
ADJACENT TO BIKE TRAIL FROM
PRESCOTT ROAD TO CARVER ROAD (2,639' C.L. TO C.L.)
(REFERENCE FIGURES-5, 5A, 5B, AND 5C)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	4,960	SF	\$0.35	\$1,736
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B., T.I. = 8 R.V. = 46)	4,085	SF	\$2.00	\$8,170
3.	6" VERTICAL CURB AND GUTTER	352	LF	\$9.00	\$3,168
4.	5' SIDEWALK	1,760	SF	\$3.00	\$5,280
5.	STORM DRAINAGE				
a.	12" STORM DRAIN	265	LF	\$30.00	\$7,950
b.	CATCH BASIN	1	EA	\$1,000.00	\$1,000
c.	STORM MANHOLE	1	EA	\$2,500.00	\$2,500
6.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$495.30	\$495
7.	TRAFFIC CONTROL	LUMP SUM	LS	\$1,000.00	\$1,000
8.	IRRIGATION REMOVAL	316	LF	\$10.00	\$3,160
CONSTRUCTION TOTAL =====>					\$34,459
10% CONTINGENCY =====>					\$3,446
TOTAL SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN CONSTRUCTION =====>					\$37,905
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$2,274.31	\$2,274
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$1,137.16	\$1,137
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$1,516.21	\$1,516
TOTAL FEES =====>					\$4,928
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	0.11	AC	\$65,000.00	\$7,410
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$9,910
SNYDER AVENUE ADJACENT TO THE STORM DRAIN BASIN TOTAL =====>					\$52,743

Melandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
II. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL					
A. CONSTRUCTION					
1.	CLEARING AND GRADING	51,575	SF	\$0.35	\$18,051
2.	PAVEMENT (0.40' A.C. OVER 0.55' A.B.; T.I. = 8, R.V. = 48)	47,020	SF	\$2.00	\$94,040
3.	PAVEMENT REMOVAL	59,730	SF	\$1.50	\$89,595
4.	6" VERTICAL CURB AND GUTTER	2,538	LF	\$9.00	\$22,842
5.	STORM DRAINAGE				
a.	12" CATCH BASIN RUNS (50 L.F. PER C.B.)	250	LF	\$30.00	\$7,500
b.	CATCH BASINS	5	EA	\$1,000.00	\$5,000
c.	STORM MANHOLE	5	EA	\$2,500.00	\$12,500
6.	ELECTROLIERS (660' INTERVALS)	4	EA	\$3,500.00	\$14,000
7.	SIGNING / STRIPING (5% OF GRADING AND PAVEMENT COST)	1	EST	\$5,604.56	\$5,605
8.	TRAFFIC CONTROL	LUMP SUM	LS	\$5,000.00	\$5,000
9.	ABANDON EXISTING PUMP STATION NO. 47	LUMP SUM	LS	\$4,500.00	\$4,500
CONSTRUCTION TOTAL =====>					\$278,633
10% CONTINGENCY =====>					\$27,863
TOTAL SNYDER AVENUE ADJACENT TO BIKE TRAIL CONSTRUCTION =====>					\$306,496
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$18,389.77	\$18,390
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$9,194.88	\$9,195
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$12,259.84	\$12,260
TOTAL FEES =====>					\$39,844
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	1.58	AC	\$65,000.00	\$102,700
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$105,200
SNYDER AVENUE ADJACENT TO THE BIKE TRAIL TOTAL =====>					\$451,541
SNYDER AVENUE GRAND TOTAL =====>					\$504,283

NOTES:

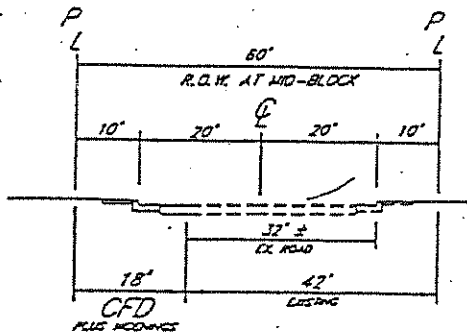
A. SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN

1. THE SNYDER AVENUE IMPROVEMENTS ADJACENT TO THE STORM DRAINAGE BASIN, INCLUDE THE COST FOR IMPROVEMENT FROM THE WEST SIDE OF THE PROPOSED BASIN PROPERTY TO THE RETURN AT PRESCOTT ROAD.
2. THE RIGHT-OF-WAY COSTS IS THE AREA OF DEDICATION REQUIRED ASSUMING AN EXISTING 20 FOOT DEDICATION ON THE NORTH SIDE OF SNYDER AVENUE.

B. SNYDER AVENUE SOUTH SIDE ADJACENT TO BIKE TRAIL

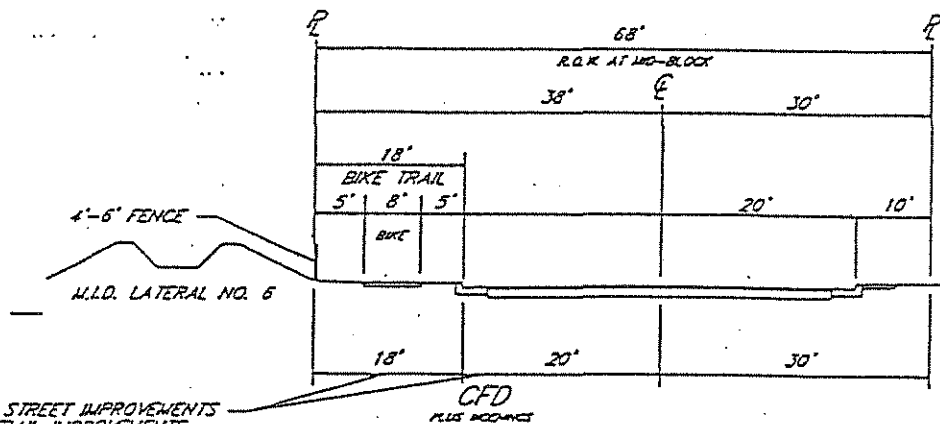
1. THE SNYDER AVENUE IMPROVEMENTS INCLUDE THE COSTS FOR ROADWAY IMPROVEMENTS (EXCLUDING BIKE TRAIL) SOUTH OF THE CENTERLINE (20') FROM PRESCOTT ROAD TO CARVER ROAD.
2. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
3. NO "MAINLINE" STORM DRAIN IMPROVEMENTS ARE INCLUDED SINCE THOSE COSTS ARE INCLUDED WITHIN THE STORM DRAIN COMPONENT OF THE C.F.D.
4. NO COSTS ARE INCLUDED IN THIS ESTIMATE FOR THE CLASS I BIKE TRAIL ADJACENT TO SNYDER AVENUE.
5. THE PAVEMENT REMOVAL QUANTITIES INCLUDES THE COST TO REMOVE THE ENTIRE EXISTING PAVEMENT SECTION FROM PRESCOTT ROAD TO CARVER ROAD.
6. THIS ESTIMATE INCLUDES A COST TO ABANDON EXISTING STORM DRAIN PUMP STATION NO. 47 ASSUMING CONNECTION TO THE POSITIVE STORM DRAIN SYSTEM.
7. NO COST FOR EXISTING POWER POLE RELOCATION IS INCLUDED IN COSTS.
8. THE R-VALUE ASSUMPTIONS WERE DERIVED FROM SOILS REPORTS PREPARED BY KLEINFELDER, INC. FOR THE FOLLOWING SUBDIVISIONS: KENSINGTON PARK, TUSCANY, EASTPORT AND ALMOND VALLEY

SNYDER AVENUE



SNYDER AVENUE ADJACENT TO STORM DRAIN BASIN (SEC. A)

NOTES: 1) MATCH EXISTING PAVEMENT PER CITY STANDARDS

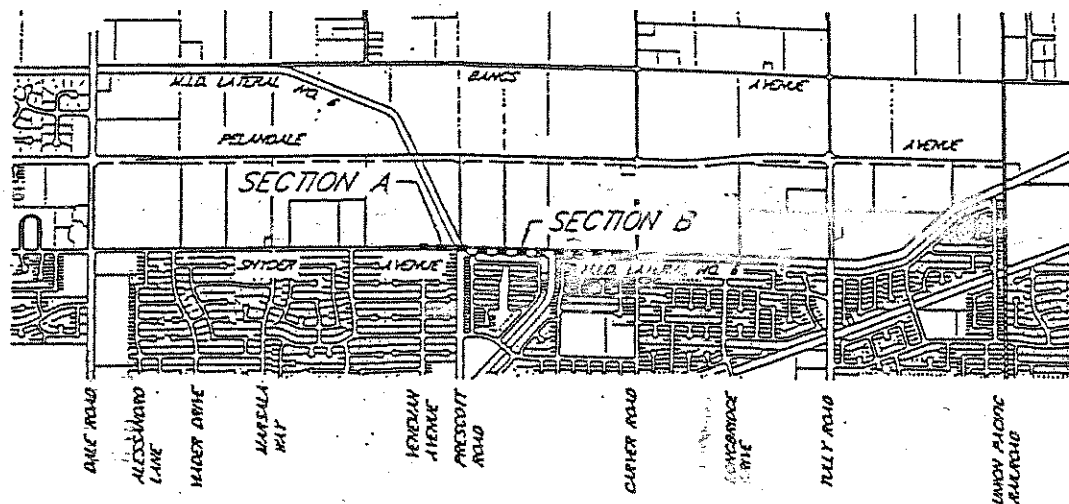


PROPOSED STREET IMPROVEMENTS AND BIKE TRAIL IMPROVEMENTS INCLUDED WITHIN CFD (REFER TO BIKE TRAIL SECTION FOR BIKE TRAIL COSTS AND IMPROVEMENTS)

CARVER ROAD TO PRESCOTT ROAD (SEC. B)

NOTES:

1. REFER TO FIGURE 5A FOR A DETAILED CROSS SECTION OF THE PROPOSED NEW SNYDER ALIGNMENT
2. REFER TO FIGURE 5B FOR RIGHT-OF-WAY TAKE SUMMARY
3. REFER TO FIGURE 5C FOR PRESCOTT SNYDER INTERSECTION DETAIL



Drawn J.R.M.

Date 03-13-18

Scale

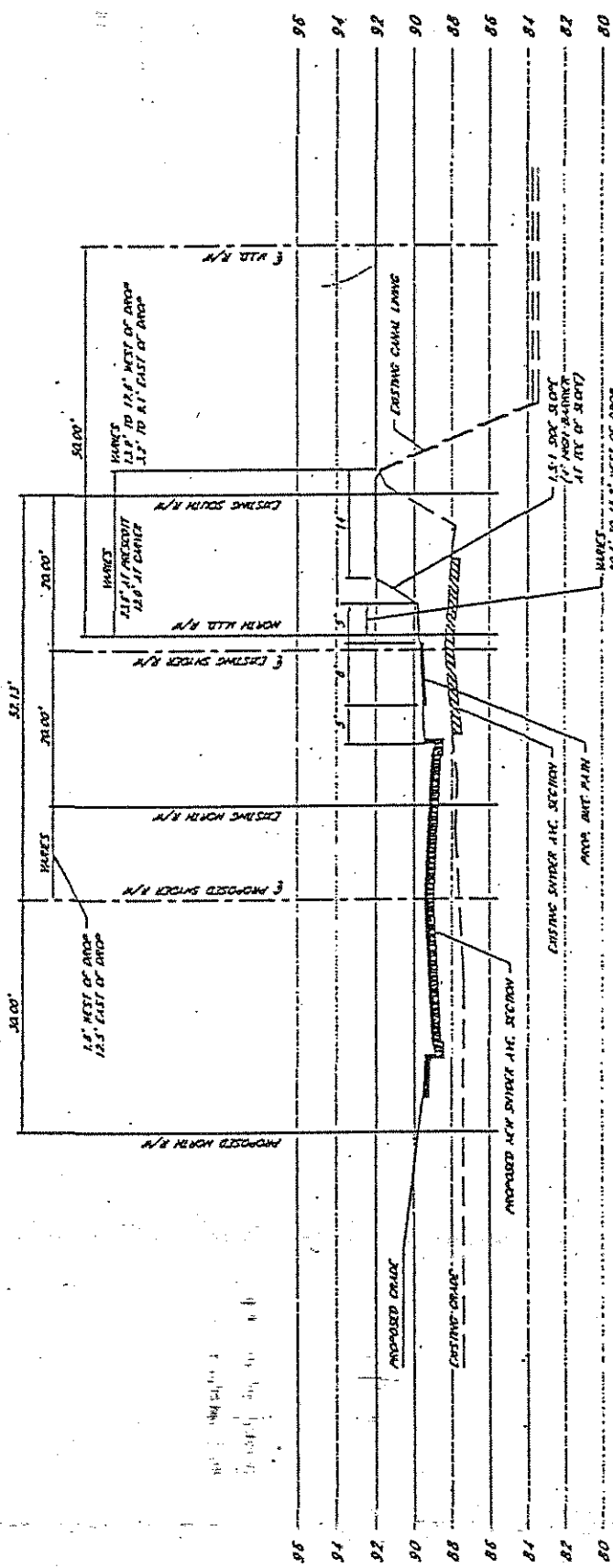
FIGURE 5



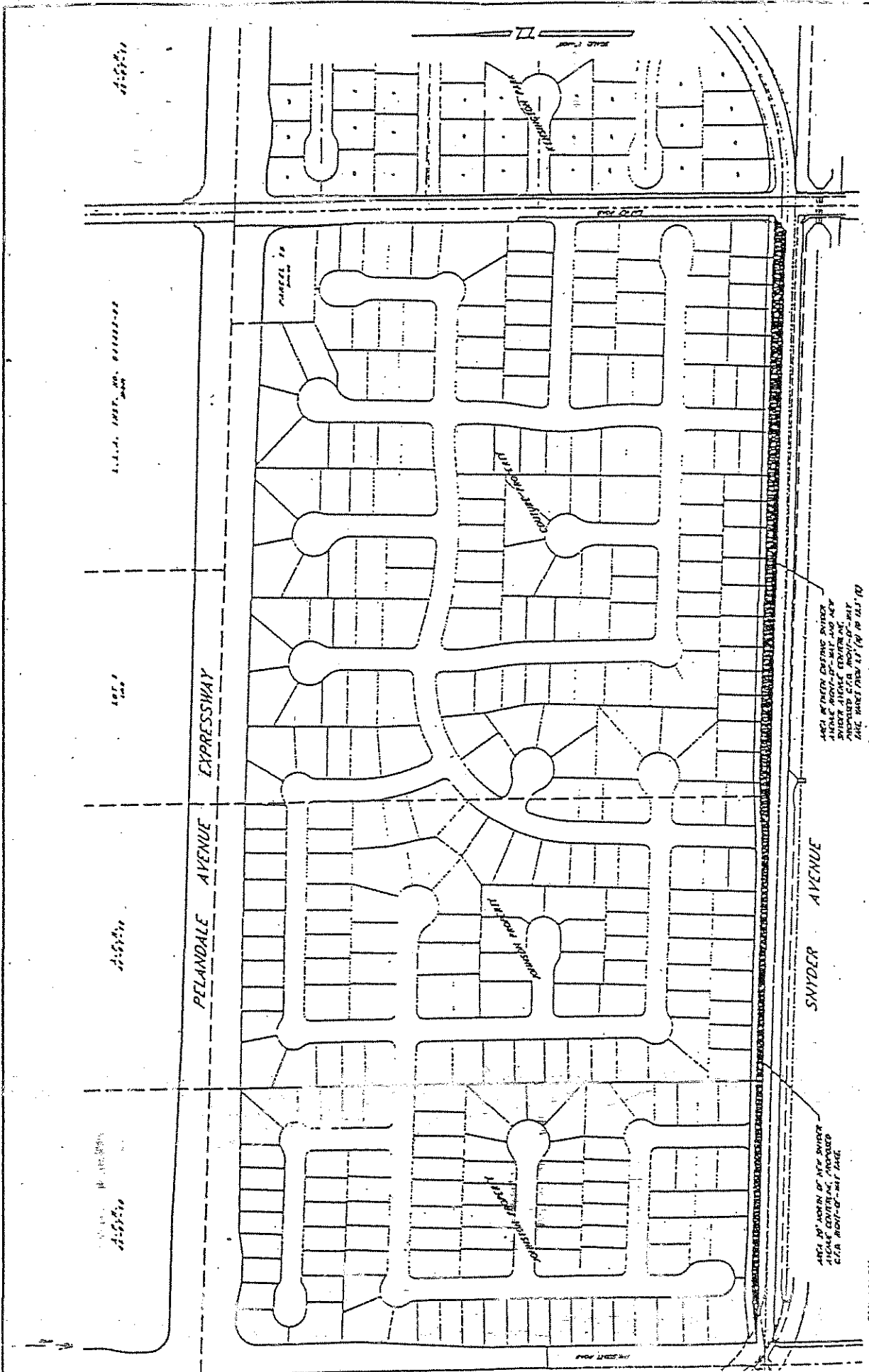
FAX (209)

526-0800

SHEET



TYPICAL SECTION ALONG THE M.I.D. RIGHT-OF-WAY
 BETWEEN
 PRESCOTT ROAD AND CARVER ROAD
PROPOSED SNYDER AVENUE



NO. 1	NO. 2	NO. 3	NO. 4	NO. 5	NO. 6	NO. 7	NO. 8	NO. 9	NO. 10

C.F.D. RIGHT-OF-WAY TAKE
 SNYDER AVENUE
 SACRAMENTO CALIFORNIA

LOG NUMBER DISCLOSED
 SACRAMENTO
 (916) 433-1311
 FAX 433-0003

800 N STREET, SUITE 8
 SACRAMENTO, CALIFORNIA 95834

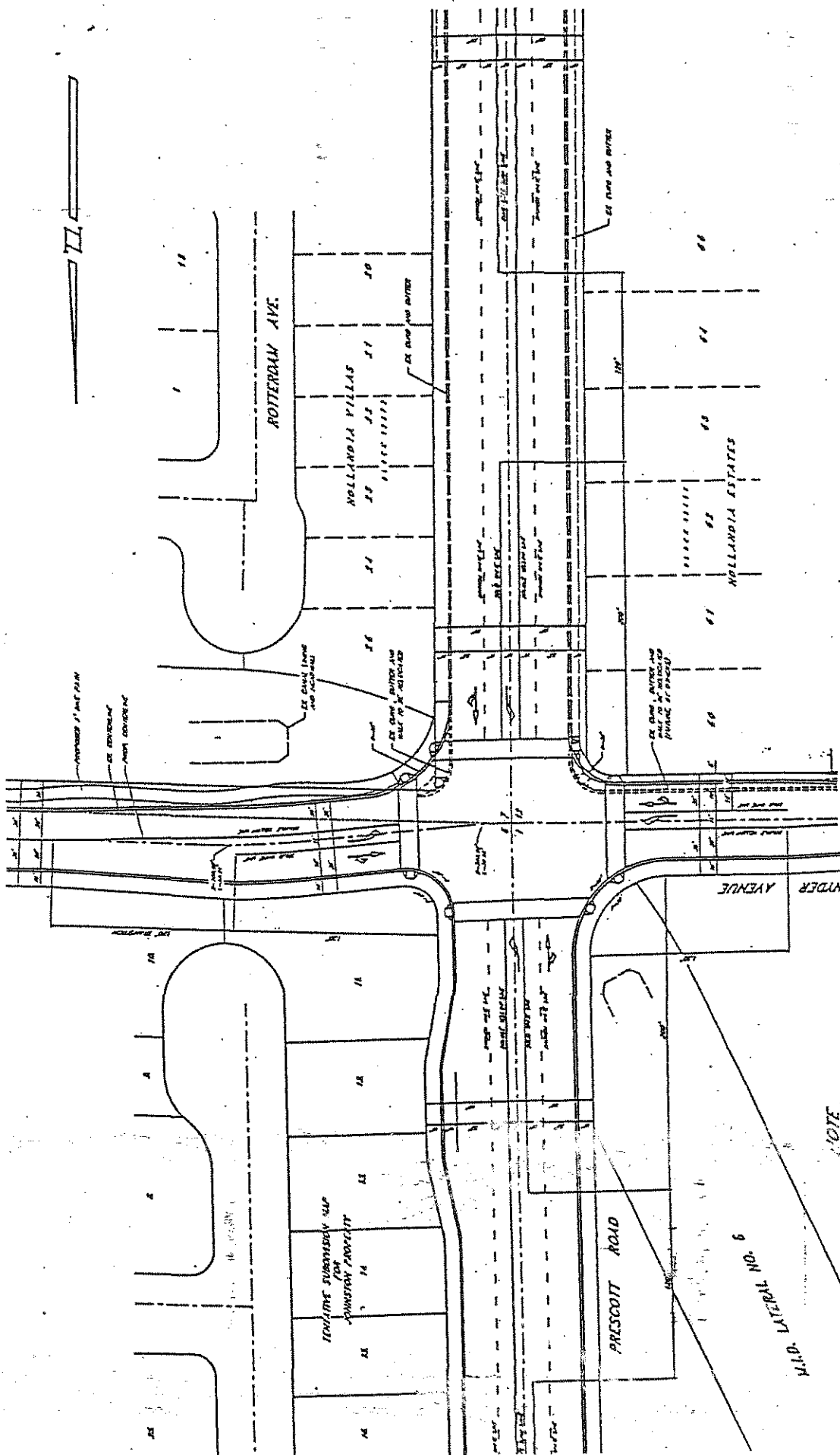
AREA WITHIN EXISTING SNYDER AVENUE RIGHT-OF-WAY AND NEW SNYDER AVENUE RIGHT-OF-WAY TAKE SHALL BE SUBJECT TO THE CITY OF SACRAMENTO'S LAND USE ORDINANCES.

AREA NOW OWNED BY CITY OF SACRAMENTO SHALL BE SUBJECT TO THE CITY OF SACRAMENTO'S LAND USE ORDINANCES.

AREA NOW OWNED BY CITY OF SACRAMENTO SHALL BE SUBJECT TO THE CITY OF SACRAMENTO'S LAND USE ORDINANCES.

- STAIRCASE:**
- TOTAL AREA OF C.F.D. RIGHT-OF-WAY TAKE: 6857 S.F.
 - SNYDER AVENUE PROPERTY (A.P.N. 44-07-12) RIGHT-OF-WAY TAKE: 11918 S.F.
 - SNYDER AVENUE PROPERTY (A.P.N. 44-07-13) RIGHT-OF-WAY TAKE: 11913 S.F.
 - COURTYARD PROPERTY (A.P.N. 44-07-11) RIGHT-OF-WAY TAKE: 4200 S.F.

PRELIMINARY SNYDER / PRESCOTT INTERSECTION LAYOUT



NOTE:
 INTERSECTION DESIGN AS
 PER THE CITY OF ADOBESTO
 STANDARDS, DETAIL AND JOB

M.I.D. LAYOUT NO. 6



MID VALLEY ENGINEERING
 INCORPORATED
 1000 S. GARDEN ST., SUITE 100
 AUSTIN, TEXAS 78748

LAND PLANNING
 & DESIGN
 SERVICES

(512) 834-4811
 FAX: 834-0033

PELAN DALE SNYDER
 CFD FORMATION

ADDRESS
 CHAPMAN

DATE	1/1/00
BY	PLS
CHECKED	PLS
APPROVED	PLS
SCALE	AS SHOWN
TITLE	PRELIMINARY SNYDER / PRESCOTT INTERSECTION LAYOUT
PROJECT NO.	1000
CLIENT	PELAN DALE SNYDER
LOCATION	CHAPMAN

PELANDALE-SNYDER SPECIFIC PLAN AREA
COMMUNITY FACILITIES DISTRICT
PRELIMINARY ENGINEER'S ESTIMATE
FOR
BIKE TRAIL SYSTEM
(REFERENCE FIGURE 6)

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
I. DESIGN PARAMETERS					
1.	INSTALL 18' BIKE TRAIL SYSTEM (8' PATH, 10' LANDSCAPING, AND 4-6' FENCE) ALONG SNYDER AVENUE FROM PRESCOTT ROAD TO CARVER ROAD.				
2.	INSTALL 25' BIKE TRAIL SYSTEM (8' PATH, 17' LANDSCAPING, AND 4-6' FENCE) ALONG MODESTO IRRIGATION DISTRICT LATERAL NO. 6 FROM CARVER ROAD TO THE UNION PACIFIC RAILROAD.				
3.	TOTAL LENGTH 8276 L.F. OR 1.567 MILES				
	EXISTING CFF PORTION	1.567	MILES	\$105,600.00	\$165,475
II. CLASS I BIKE TRAIL					
A. CONSTRUCTION					
1.	8' BIKE PATH WITH 2' GRAVEL SHOULDER (8,276 L.F. x 8')	66,208	SF	\$2.00	\$132,416
2.	4'-6' FENCE	8,276	LF	\$16.00	\$132,416
3.	LANDSCAPING (6' AREA FROM PRESCOTT TO CARVER (2,770 L.F.); 13' AREA FROM CARVER TO UNION PACIFIC RAILROAD (5,506 L.F.))	88,198	SF	\$2.80	\$246,954
	CONSTRUCTION TOTAL =====>				\$511,786
	10% CONTINGENCY =====>				\$51,179
	TOTAL BIKE PATH =====>				\$562,965
B. FEES					
1.	ENGINEERING (6% OF CONSTRUCTION TOTAL)	1	EST	\$33,777.90	\$33,778
2.	STAKING (3% OF CONSTRUCTION TOTAL)	1	EST	\$16,888.95	\$16,889
3.	CONSTRUCTION MANAGEMENT (4% OF CONSTRUCTION TOTAL)	1	EST	\$22,518.60	\$22,519
	TOTAL FEES =====>				\$73,185

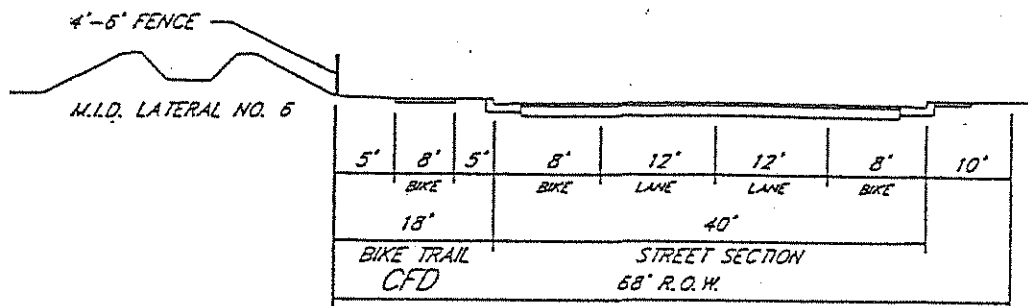
Pelandale-Snyder Specific Plan Area
 Community Facilities District
 Preliminary Engineer's Estimate
 October 23, 1998

ITEM	DESCRIPTION	QUAN.	UNIT	UNIT COST	AMOUNT
C. LAND ACQUISITION					
1.	RIGHT-OF-WAY DEDICATION	4.30	AC	\$65,000.00	\$279,500
2.	RIGHT-OF-WAY ADMINISTRATION	LUMP SUM	LS	\$2,500.00	\$2,500
TOTAL LAND ACQUISITION =====>					\$282,000
BIKE PATH GRAND TOTAL =====>					\$918,150
CFF PORTION TOTAL =====>					\$165,475
TOTAL PELANDALE-SNYDER CFD PORTION =====>					\$752,675

NOTES:

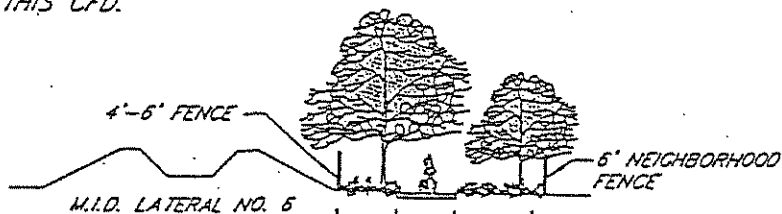
1. THE RIGHT-OF-WAY AREA TO BE INCLUDED WITHIN THIS CFD ALONG SNYDER AVENUE BETWEEN PRESCOTT ROAD AND CARVER ROAD IS AS FOLLOWS:
 - A. VARYING RIGHT-OF-WAY WIDTH FROM 1.8+/- FEET TO 12.5+/- FEET FROM THE PROPOSED NEW SNYDER AVENUE CENTERLINE TO THE EXISTING SNYDER AVENUE DEDICATION.
 - B. 20' WIDTH RIGHT-OF-WAY FROM PROPOSED NEW SNYDER CENTERLINE NORTH. ADJACENT DEVELOPMENT WOULD BE RESPONSIBLE FOR A 10 FOOT WIDTH RIGHT-OF-WAY DEDICATION ALONG THE NORTH SIDE OF SNYDER AVENUE.
2. THIS ESTIMATE DOES NOT INCLUDE ANY COSTS ASSOCIATED WITH THE SNYDER AVENUE ROAD IMPROVEMENTS.

BIKE TRAIL



BIKE TRAIL ALONG SNYDER AVENUE

NOTE: SEE SNYDER AVENUE CROSS-SECTIONS FIGURE 5A FOR RIGHT-OF-WAY AND STREET IMPROVEMENTS INCLUDED WITHIN THIS CFD.

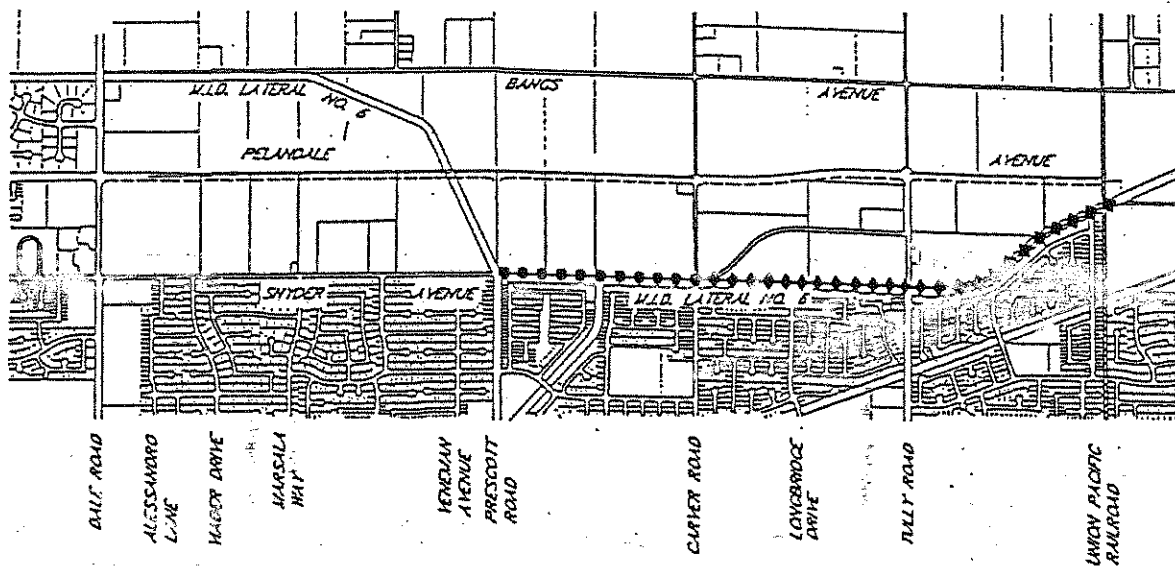


LEGEND

IMPROVEMENTS:

- = BIKE TRAIL ALONG SNYDER AVENUE
- ◆◆◆◆◆ = BIKE TRAIL ALONG M.I.D. LATERAL

BIKE TRAIL ALONG M.I.D. LATERAL



Drawn J.R.M.
Date 8-13-98

FIGURE 6



FAX (209) 526-0803

SHEET

Exhibit B

EXHIBIT B

CERTIFICATE OF CITY CLERK

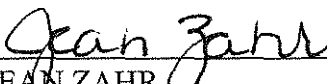
I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2003-192, the Resolution calling for the Election, adopted on April 8, 2003 by the City Council of the City of Modesto, I did conduct a Special Tax Election for Community Facilities District No. 1998-2(2) on April 15, 2003, and that the election was conducted by mail or in person at the City Hall 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 a special tax with a maximum rate, method of apportionment, and manner of collection as established in the Resolution of Formation by Res. 98-653 adopted on December 8, 1998, and the amended Public Report dated March 25, 1999 to be considered at public hearing by the City Council of the City of Modesto on April 8, 2003 be levied within the territory proposed to be annexed to Community Facilities District No. 1998-2(2) for the purposes of financing certain public facilities and services as provided in the Public Report?

TOTAL VOTES CAST: YES 20 NO 0

Dated: April 22, 2003



JEAN ZAHR
City Clerk of the City of Modesto

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-197**

**A RESOLUTION APPROVING THE FINAL MAP OF THE COVINGTON
POINTE SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING
THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH
MODESTO TULLY INVESTORS, L.P., A CALIFORNIA LIMITED
PARTNERSHIP, BY MODESTO TULLY VENTRUES, LLC, A CALIFORNIA
LIMITED PARTNERSHIP COMPANY**

WHEREAS, MODESTO TULLY INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 16.82 acres, known as the COVINGTON POINTE (“SUBDIVISION”), in the Pelandale-Snyder Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 13th day of November, 2002, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets, alleys 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 subdivider 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 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-198**

A RESOLUTION REJECTING BID FOR TIRE RECAPPING AND RELATED SERVICES AND AUTHORIZING RE-BIDDING THIS SCOPE OF WORK FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.

WHEREAS, the bids received for tire recapping and related services were opened at 11:00 a.m. on February 4, 2003, in the office of the City Clerk, and

WHEREAS, bid specifications stated vendors shall submit two (2) original bids, and

WHEREAS, two (2) vendors chose to respond with one vendor submitting two (2) original bids and one vendor submitting one (1) original bid, and

WHEREAS, to reject one of the two vendors based on the fact that one did not supply two (2) original bids would be counter productive to the competitive process.

Therefore, to ensure that the competitive process is met the Purchasing Division is requesting that Council authorize rejecting all bids from Request for Bid No. 0203-18 and allow the Purchasing Division to re-issue bids for tire recapping and related services, and

WHEREAS, re-bidding will allow for modifications in the bid specifications. The Purchasing Division will contact those bidders who chose not to respond to the first bid to find out why. Their reasons should be of benefit when writing the terms and conditions language used for the re-bid. In addition, the Purchasing Division will hold a bidders' conference addressing bid terms and conditions with the bidders, paying particular attention to the requirement of bidders submitting two (2) original bid documents. These efforts should provide a more competitive bid process by increased vendor inclusion, and

WHEREAS, both Modesto Municipal Code 8-3.203 and the bid language allow for all bids to be rejected.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for tire recapping and related services, Bid No. 0203-18, opened in the office of the City Clerk on February 4, 2003, are hereby rejected.

BE IT FURTHER RESOLVED that a request for bids for a three (3) year agreement with two (2) one-year extension options to re-bid the tire recapping and related services with modified specifications is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-199**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A JOHN DEERE 444H
LOADER UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF
GENERAL SERVICES, CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
CONTRACT FROM NORTREX WEST OF FRENCH CAMP, CA. FOR A
TOTAL ESTIMATED COST OF \$91,678.41**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a John Deere 444H loader, and

WHEREAS, this unit has met its life expectancy, and

WHEREAS, this unit is fully funded for replacement from funds set aside out of the Fleet Replacement Fund, and

WHEREAS, the estimated cost of a new John Deere 444H loader purchased under a State of California, California Multiple Award Schedule (CMAS) contract is \$91,678.41, and

WHEREAS, the estimated State Service Charge for using the CMAS contract is \$1,567.67, and

WHEREAS, purchasing the equipment from Nortrex West under the CMAS contract will allow the City to receive the lowest possible price for the equipment, and

WHEREAS, the estimated total cost of this purchase is \$91,678.41, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC 8-3.204 (d) the Purchasing Supervisor may determine 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,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the purchase of a John Deere 444H loader from Nortrex West under the CMAS statewide pricing contract for a total estimated cost of \$91,678.41.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-200**

A RESOLUTION APPROVING ISSUANCE OF REQUESTS FOR PROPOSALS TO FIRMS PRE-QUALIFIED UNDER THE CITY'S REQUEST FOR QUALIFICATIONS PROCESS TO ASSIST IN UPDATING THE STORM WATER MANAGEMENT PLAN, MANDATED BY THE CITY'S "NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM STORMWATER PERMIT - NPDES NO. CAS8083526" STORM WATER MANAGEMENT PROGRAM

WHEREAS, on November 16, 1990, the Environmental Protection Agency published regulations that required municipalities over 100,000 in population to apply for a National Pollution Discharge Elimination System (NPDES) municipal stormwater permit, and

WHEREAS, Council Resolution 2002-588 accepted the renewal of NPDES Stormwater Permit No. CAS8083526 prepared for the City of Modesto, and

WHEREAS, as part of this current NPDES Stormwater Permit, the RWQCB mandates the City to create a Storm Water Management Plan (SWMP) by July 1, 2003, which deadline has been extended from the original April 1, 2003 deadline, and

WHEREAS, within that Plan the City must develop the following programs:

- Construction Program
- Industrial/Commercial Program
- Municipal Program
- Illicit Discharge/Illicit Connection Program
- Education and Public Outreach Program
- Land-Use Planning for New Development and Redevelopment
- Training Program
- Assessment Tools / Performance Standards
- Fiscal Analysis

WHEREAS, City staff has been working on the SWMP, however, there are many complex issues and it will take technical and environmental experts approximately 2,500 additional man-hours to complete this comprehensive plan, and

WHEREAS, staff's already-heavy workload precludes completion of this project without outside assistance, and

WHEREAS, if the Plan is not completed by July 1, 2003 the City will be in violation of its NPDES Stormwater Permit, and

WHEREAS, staff prepared a qualification checklist and issued Requests for Qualifications to various firms who might be able to assist in update the Plan, and

WHEREAS five statements were returned with three of those having met all the required criteria,

NOW, THEREFORE BE IT HEREBY RESOLVED by the Council of the City of Modesto that the City of Modesto hereby send Requests For Proposals to the three qualified firms of:

Camp, Dresser & McKee, Inc
Eisenberg, Olivieri & Associates
Larry Walker & Associates

to assist in updating the NPDES Stormwater Permit's Storm Water Management Plan by the due date of July 1, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


MICHEAL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-201**

A RESOLUTION APPROVING XCLAMATION FEST 2003 HOSTED BY CHRIS RICCI PRESENTS, INC. AND JCD CONCEPTS 2000, INC. IN DOWNTOWN MODESTO ON SATURDAY JULY 19, 2003

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 (X-Fest), and

WHEREAS, this event will take place again on Saturday, July 19, 2003, and

WHEREAS, Mr. Ricci has met with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approval and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and

WHEREAS, the Safety & Communities Committee reviewed this item at its March 31, 2003, meeting and supported approval of the Xclamation Fest,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2003 to be held in Downtown Modesto on Saturday, July 19, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-202**

**A RESOLUTION APPROVING THE TERMS OF A LEASE AGREEMENT
BETWEEN CIVIC PARTNERS AND THE MODESTO ART CENTER AND
GALLERY FOR RENTAL OF +/- 5,148 SQUARE FEET OF COMMERCIAL
SPACE ON THE FIRST FLOOR OF TENTH STREET PLACE**

WHEREAS, the Central California Art League currently rents space at the McHenry Museum for its Modesto Art Center and Gallery, and

WHEREAS, the Modesto Art Center and Gallery would like a more visible space and the McHenry Museum needs the existing space for new programs and activities, and

WHEREAS, staff has located street level storefront gallery space at Tenth Street Place and negotiated proposed terms with Civic Partners, and

WHEREAS, the +/- 5,148 square foot space is available for a three year lease for \$3,964/month in year one, \$4,043/month in year two, and \$4,124 in year three, and

WHEREAS, on August 3, 2002, the Safety and Communities Committee supported the recommendation that the Central California Art League's Modesto Art Center and Gallery search for a new site, and

WHEREAS, at their January 6, 2003 meeting and March 31, 2003 meeting, the Safety and Communities Committee supported the proposed lease agreement between Civic Partners and the Modesto Art Center and Gallery,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the lease agreement between Civic Partners and Modesto Art Center and Gallery for rental of +/- 5,148 square feet of commercial space on the first floor of Tenth Street Place.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-203**

A RESOLUTION APPROVING THE CITY OF MODESTO AS THE LEASE GUARANTOR ON THE LEASE AGREEMENT BETWEEN CIVIC PARTNERS AND MODESTO ART CENTER AND GALLERY FOR A LEASE AGREEMENT FOR +/- 5,148 SQUARE FEET OF STREET LEVEL STOREFRONT SPACE AT TENTH STREET PLACE FOR THE MODESTO ART CENTER AND GALLERY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GUARANTEE OF LEASE AGREEMENT.

WHEREAS, the Central California Art League currently rents space at the McHenry Museum for its Modesto Art Center and Gallery, and

WHEREAS, the Modesto Art Center and Gallery would like a more visible space and the McHenry Museum needs the existing space for new programs and activities, and

WHEREAS, staff has located street level storefront gallery space at Tenth Street Place and negotiated proposed terms with Civic Partners, and

WHEREAS, the +/- 5,148 square foot space is available for a three year lease for \$3,964/month in year one, \$4,043/month in year two, and \$4,124 in year three, and

WHEREAS, Civic Partners is requiring that the Central California Art League secure a guarantor for their lease agreement, and

WHEREAS, on August 5, 2002, the Safety and Communities Committee supported the recommendation that the Central California Art League's Modesto Art Center and Gallery search for a new site, and

WHEREAS, at their January 6, 2003 meeting, the Safety and Communities Committee supported the proposed lease agreement between Civic Partners and the Modesto Art Center and Gallery with the City as co-signor on the lease, and

WHEREAS, the Safety & Communities Committee reviewed this item at its March 31, 2003 meeting and approved the City as the lease guarantor on the lease agreement between Civic Partners and the Modesto Art Center and Gallery,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the City of Modesto as the lease guarantor on the lease agreement between Civic Partners and Modesto Art Center an Gallery for +/- 5,148 square feet of street level storefront space at Tenth Street Place in downtown Modesto.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager to execute the guarantee of lease agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-204**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH-
CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE INC. TO
PROVIDE ADDITIONAL SERVICES RELATED TO THE PREPARATION OF
THE ENVIRONMENTAL DOCUMENTS FOR THE VIRGINIA AVENUE
CORRIDOR SPECIFIC PLAN PROJECT, INCREASING THE CONTRACTUAL
FEE BY \$72,640 FROM \$304,000 TO \$376,640 AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.**

WHEREAS, the Virginia Avenue Corridor Trail Project consists of conversion of the abandoned 4.2 mile Union Pacific Railroad corridor to a linear park with Class I bikeway and pedestrian trail, and

WHEREAS, on October 8, 2001, the City Council approved an agreement with Callander Associates Landscape Architecture, Inc. to prepare a Specific Plan for the project with a professional service fee of \$304,000, and

WHEREAS, at that time, it was the intent of staff to have the environmental work prepared by a separate environmental consultant, and

WHEREAS, since that time, staff has determined that the environmental document preparation work could best be undertaken by Cotton-Bridges Associates, a sub-consultant of Callander Associates Landscape Architecture, Inc., and

WHEREAS, by including this work within a revised scope of the Agreement with Callander Associates, this firm will have direct oversight to provide coordination between the Specific Plan and the environmental documents, and

WHEREAS, both federal National Environmental Protection Act (NEPA) and State of California Environmental Quality Act (CEQA) compliance will be met so as to qualify the project for federal and state funding sources, and

WHEREAS, staff is recommending amending the Agreement with Callander Associates Landscape Architecture, Inc. to provide the additional work as described in Exhibit "A-1", attached hereto and incorporated by reference, increasing the contractual fee by \$72,640 from \$304,000 to \$376,640, and

WHEREAS, the Safety and Communities Committee met on March 31, 2003, and supported staff's recommendation to approve an Amendment to the Agreement with Callander Associates Landscape Architecture, Inc. to provide the additional work as described in Exhibit "A-1" and to increase the contractual fee by \$72,640 from \$304,000 to \$376,640,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to Agreement with Callander Associates Landscape Architecture, Inc. to provide additional services related to the preparation of the environmental documents for the Virginia Avenue Corridor Specific Plan project at a cost not to exceed \$72,640.

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 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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



Callander Associates
Landscape Architecture, Inc.

Exhibit A-1

Via First Class Mail

March 18, 2003

ADDITIONAL SERVICES AUTHORIZATION #1 (Revised)

TO: Mr. Doug Critchfield, Parks Planning
and Development Manager
City of Modesto

Recreation and Neighborhoods Department
1010 Tenth Street, Suite 4400
Modesto, CA 95353

Phone: (209) 577-5353
Fax: (209) 579-5077

RE: VIRGINIA CORRIDOR/environmental document

The following additional services will be provided on this project in accordance with our agreement dated October 16, 2001 and are considered an amendment thereto:

SCOPE

Project Manager (Callander Associates) to be Brian Fletcher

Environmental Document: Callander Associates will provide environmental document preparation services per the attached scope of services by Cotton/Bridges/Associates, dated September 25, 2002, and per the following tasks.

- Task 1 – initial consultations
- Task 2 – prepare IS/EA
- Task 3 – prepare MND/FONSI
- Task 4 – prepare NEPA notices
- Task 5 – prepare response to comments on the draft MND
- Task 6 – meetings and public hearings
- Task 7 – mitigation monitoring, program/notice of determination

311 Seventh Avenue
San Mateo, CA 94401-4259
T 650.375.1313
F 650.344.3290
www.callanderassociates.com

2941 Sunrise Blvd, Suite 330
Rancho Cordova, CA 95742
T 916.631.1312
F 916.635.9153
www.callanderassociates.com

Landscape Architecture
Urban Design
Land Planning
Park and Recreation Planning
Environmental Planning

Peter Callander, ASLA, Principal
Mark Slichter, ASLA, Senior Associate
Brian G. Fletcher, ASLA, Associate
Crik Smith, ASLA, Associate
Benjamin W. Woodside, ASLA, Associate

Progress Report Meeting: Callander Associates to allow for a single progress report meeting with City staff and preparation of a *written meeting summary*.

Interim Coordination: Callander Associates will provide on-going review and coordination during environmental document preparation (allow for 6 hours).

Plan Graphics: Callander Associates will provide existing *conceptual plan graphics* for incorporation into environmental document.

COMPENSATION

Rate Adjustment

Change the hourly rates listed in the original contract to the 2003 rates shown in the attached Standard Schedule of Compensation 2003 (S).

Environmental Document

Fees (hourly, as indicated below):..... \$4,880

Callander Associates:

senior principal	8	hours	@ \$170	/hour	.....	\$1,360
associate (1)	16	hours	@ \$128	/hour	.....	\$2,048
landscape architect (1)	16	hours	@ \$92	/hour	.....	\$1,472

Subconsultant (shall be on a lump sum fee basis):

Cotton/Bridges/Associates..... \$65,500

Reimbursable expenses and surcharges (allowance of):..... \$2,260

Total (ASA #1)..... \$72,640

Original contract..... \$303,520

TOTAL COMPENSATION..... \$376,160

Schedule

Callander Associates will proceed to complete the above services concurrently with completion of our other services after receipt of a signed copy of this authorization.



Callander Associates
Landscape Architecture, Inc.

Standard Schedule of Compensation 2003 (S)

General

The following list of fees and reimbursable expense items shall be used in providing service in the agreement. These amounts shall be adjusted in January, upon issuance of an updated Standard Schedule of Compensation:

Hourly Rates

Senior Principal	\$170/hour	Landscape Architect 3	\$79/hour
Principal	\$149/hour	Construction Manager	\$92/hour
Senior Associate	\$132/hour	Assistant 1	\$75/hour
Associate 1	\$128/hour	Assistant 2	\$68/hour
Associate 2	\$106/hour	Assistant 3	\$59/hour
Associate 3	\$96/hour	Technician	\$51/hour
Landscape Architect 1	\$92/hour	Word Processor	\$75/hour
Landscape Architect 2	\$85/hour	Project Assistant	\$75/hour

Reimbursable Expenses

All costs for photography, printing and plotting, special delivery, insurance certificate charges, charges for waivers of subrogation, local business licenses, sales taxes, assessments, fees, mileage, all CADD and visual simulation ancillary costs, such as data transfers, tapes and outside services, and all other costs directly related to the project will be billed as a reimbursable expense at our cost plus a fifteen percent (15%) administration charge. The cost of professional liability insurance and all costs associated with cell phones, electronic mail, faxes, long distance phone charges and related telecommunications shall be charged as a combined surcharge of 2.5% on the total fees.

Payments

Payments are due within ten days after monthly billing with amounts more than thirty days past due subject to a 1.5% per month interest charge. Retainer amounts, if indicated, are due upon signing the agreement and shall be applied to the final invoice for the project.

StandardScheduleofCompensation2003(S).doc

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Landscape Architecture, Inc.

311 Seventh Avenue

San Mateo, CA 94401-4259

T 650.375.1313

F 650.344.3290

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Landscape Architecture

Urban Design

Land Planning

Park and Recreation Planning

Environmental Planning

Peter Callander, ASLA Principal

Mark Slichter, ASLA, Senior Associate

Brian C. Flaxman, ASLA, Associate

Erik Smith, ASLA, Associate

Benjamin J. Macoskie, ASLA, Associate

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-205

A RESOLUTION APPROVING THE APPLICATION FOR \$37,200 IN LAND AND WATER CONSERVATION FUNDS FOR THE ORVILLE WRIGHT NEIGHBORHOOD PARK PICNIC SHELTER PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION DOCUMENTS.

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-in-Aid Program, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the State Department of Parks and Recreation is responsible for administration of the program in the state, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of applications and the availability of local matching funds prior to submission of said application to the state, and

WHEREAS, the proposed Orville Wright Neighborhood Park Picnic Shelter Project is consistent with the Statewide Comprehensive Recreation Resources Plan: California Outdoor Recreation Plan 1994, 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 that the Council hereby:

1. Approves the filing of an application for Land and Water Conservation Fund assistance in the amount of \$37,200 and
2. Certifies that said agency has matching funds from the following source: Park Fund 1400, and can finance 100 percent of the project, half of which will be reimbursed; and
3. Appoints the City Manager as agent of the city to conduct all negotiations and execute and submit all necessary grant application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-206**

**A RESOLUTION AMENDING THE FISCAL YEAR 2002/03 BUDGET TO
TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO THE
GENERAL FUND - POLICE OPERATIONS FOR THE PURCHASE OF TWO
CANINES**

WHEREAS, there have been two police canines retired from the Police
Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain the
canine unit at full capacity, and

WHEREAS, costs, including travel to the kennel and air transport of the dogs, for
these canines is \$13,810 and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this
purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the 2002/03 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 0100-190-1961-5297	\$13,810	Police Field Operations
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Revenue:

From: 0100-190-1961-7202	\$13,810	Seized Forfeitures
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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 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-207**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT FOR
AUDIT SERVICES WITH VAVRINEK, TRINE, DAY & CO. FOR THE
COMMUNITY FACILITIES DISTRICTS AUDITS AT A COST NOT TO
EXCEED \$31,000, EXTENDING THE DUE DATE OF THE FINAL AUDIT
REPORTS TO THE MAY 13, 2003, COUNCIL MEETING, AND AUTHORIZING
THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.**

WHEREAS, at its October 22, 2002, meeting the Modesto City Council adopted Resolution 2002-521 approving execution of a contract with Vavrinek, Trine, Day & Co. to perform audits of the City of Modesto Community Facilities Districts, and

WHEREAS, the City Manager executed said contract on behalf of the City of Modesto, and

WHEREAS, the audit firm has requested approval to perform additional work that is outside the scope of the original contract, at a price not to exceed \$31,000, and

WHEREAS, the contract for these audit services requires Modesto City Council approval for such additional work, and

WHEREAS, the additional work will require an extension of the due date of the final audit reports to May 13, 2003, at which time the reports will be presented to the Modesto City Council, and

WHEREAS, at its April 9, 2003, meeting the Audit Committee recommended that the Council approve both the additional work and the time extension to complete this work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the contract for audit services with Vavrinek, Trine, Day & Co., for the Community Facilities Districts audits, authorizing the additional work proposed, at a cost not to exceed \$31,000, and extending the due date of the final audit reports to the Council until May 13, 2003.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

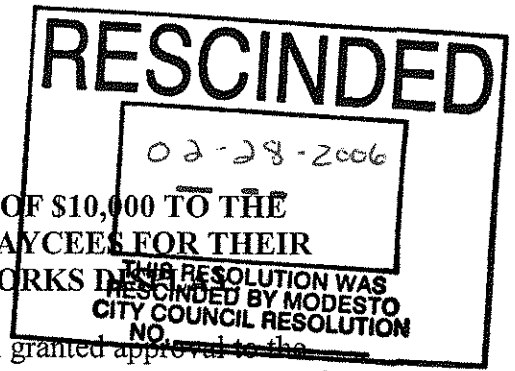
ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-208



A RESOLUTION APPROVING AN ANNUAL PAYMENT OF \$10,000 TO THE FOURTH OF JULY COMMITTEE OF THE MODESTO JAYCEES FOR THEIR ANNUAL PARADE, PICNIC IN THE PARK AND FIREWORKS

WHEREAS, by Resolution No. 96-308, the City Council granted approval to the Fourth of July Committee of the Modesto Jaycees (Committee) for their annual parade, picnic in the park and fireworks display, and

WHEREAS, in order to plan for this annual event, the Committee needs a financial commitment from the City of Modesto in advance of adoption of the City's budget, and

WHEREAS, the recommendation is made to approve an annual payment of \$10,000, with a two year termination clause,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves allocating an annual payment of \$10,000 to the Fourth of July Committee of the Modesto Jaycees to be renewed automatically on the first day of each fiscal year unless:

- (1) There was direct action on the part of City by the Mayor and City Council not to provide funding to support the Fourth of July Parade, Picnic in the Park and Fireworks Display presented by the Fourth of July Committee of the Modesto Jaycees. Should City decide not to provide funding, City shall give the Committee notice of its intent. The date the funding is terminated shall be on the date two years from the date of the written notice of said termination; or
- (2) Discontinuance of activities as described in Resolution No. 96-308. Should the Committee default in the performance of the activities described in Resolution No. 96-308 or materially breach any of its provisions, at its option, City may terminate this Agreement by giving written notification to the Committee. The termination date shall be on the date two-years from the

date of the notice. For the purposes of this section, material breach of their Agreement shall include, but not be limited to any of the following: failure to perform services or duties; failure to provide financial statements or to account for any funds allocated to Committee by the City of Modesto; or

- (3) Voluntary Termination. Either party may terminate this Agreement upon written notice to the other. The termination date shall be on the date two-years from the date of the written notice; or
- (4) This Agreement may be terminated immediately by City upon the conviction of the Fourth of July Committee or the Modesto Jaycees of illegal activities in the name of the Committee or City.

BE IT FURTHER RESOLVED that all provisions of Resolution No. 96-308, a copy of which is attached and incorporated herein by reference, 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 22nd day of April, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 209**

A RESOLUTION APPROVING A SERVICE AGREEMENT WITH RUDY BONZI, INC. FOR THE COLLECTION OF INDUSTRIAL GARBAGE, SALVAGEABLE WASTE, AND INDUSTRIAL RECYCLABLES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the Legislature of the State of California, by enactment of the California

Integrated Waste Management Act of 1990 ("AB 939"), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for handling solid waste, including garbage, garbage/recyclables, recyclables, yard waste, industrial garbage, and salvageable waste handling within their jurisdictions, and

WHEREAS, pursuant to California Public Resources Code Section 40059, the City

Council has determined that the public health, safety, and well-being require that a service agreement be executed with a qualified firm for the collection, transport, recycling, and disposal of solid waste, including garbage, garbage/recyclables, recyclables, containerized yard waste, industrial garbage, and salvageable waste in residential, commercial, and industrial areas and construction/demolition sites in the CITY, and

WHEREAS, the City Council declares its intention of maintaining reasonable rates for the services to be provided within the City limits by Rudy Bonzi, Inc., under this Agreement, and

WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the City

Council finds that it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willing and financially able to furnish needed solid waste handling services, and

WHEREAS, Sections 5-5.23 through 5-5.33 of the Modesto Municipal Code, inclusive, establish the process by which proposals may be submitted to enter into service agreements with the City, and the procedure by which the City reviews and determines whether to enter into such service agreements, and

WHEREAS, Rudy Bonzi, Inc. has submitted such a proposal to enter into a service agreement, and a public hearing was duly held on April 22, 2003 at 5:30p.m., in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at which time the matter was considered, and

WHEREAS, the Economic Development Committee considered Rudy Bonzi's request for a Service Agreement at its meeting on March 10, 2003, and recommended its consideration to the full Council,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that a Service Agreement between the City of Modesto and Rudy Bonzi, Inc. is hereby approved, for the purposes of providing solid waste collection services in the area of Industrial garbage, salvageable waste, and industrial recyclables.

BE IT FURTHER RESOLVED by the Council that it hereby authorizes the City Manager, or his designee, 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 April, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-221**

A RESOLUTION APPROVING THE APPLICATION FOR \$10,000 IN BIKES BELONG COALITION FUNDING FOR THE VIRGINIA CORRIDOR RAILS-TO-TRAILS PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION DOCUMENTS.

WHEREAS, the Bikes Belong Coalition is a membership organization founded by bicycle industry leaders with the mission of "putting more people on bikes more often", and

WHEREAS, the Bikes Belong Coalition distributes grants for bicycle facility, education, and "capacity" projects, and

WHEREAS, the Virginia Corridor Rails-to-Trails Project is consistent with the Bikes Belong Coalition grant project criteria, and

WHEREAS, the Bikes Belong Coalition requires an authorized signature on grant application and contract documents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the filing of an application for Bikes Belong Coalition assistance in the amount of \$10,000.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute and submit all necessary grant application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-225**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR THE
DISCHARGE OF STORM DRAINAGE WATER FROM THE VILLAGE ONE
CENTRAL BASIN TO LATERAL NO. 3**

WHEREAS, the City of Modesto is desirous of developing a positive storm drainage system in Village One, and

WHEREAS, the Village One Facilities Master Plan Update, dated May 2003, provides that the storm drainage water collected for the Village One area shall be discharged from the Village One Central Basin to MID Lateral No. 3, and

WHEREAS, the Modesto Irrigation District ("MID") owns the property known as Lateral No. 3, and

WHEREAS, the Modesto Irrigation District has agreed to allow the discharge of storm drainage water from the Village One Central Basin to Lateral No. 3,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and the Modesto Irrigation District for the discharge of storm drainage water from the Village One Central Basin to Lateral No. 3 is hereby approved.

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 6th day of May, 2003, Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
By: Michael D. Milich
MICHAEL D. MILICH, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-210

**A RESOLUTION ACCEPTING THE PROJECT TITLED "STREET LIGHTING
CIRCUIT REPLACEMENT" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Street Lighting Circuit Replacement", has been completed by Clayborn Contracting Group, in accordance with the contract agreement dated September 24, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "Street Lighting Circuit Replacement" project is hereby accepted from said contractor, Clayborn Contracting Group, that City staff is hereby directed to file the Notice of Completion with the Recorder of Stanislaus County and that payment of amounts due totaling \$95,752 as provided in the contract, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By


MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-211**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "OAKBROOK
APARTMENT LIFT STATION" AS COMPLETE**

WHEREAS, on November 28, 2000, the City Council authorized execution of a settlement agreement with Oakbrook Apartments at 1860 Scenic Drive by Resolution Number 2000-599, and

WHEREAS, said agreement called for installation of a self-contained sanitary sewer lift station on the Oakbrook Apartment property by the City of Modesto, and

WHEREAS, said agreement also called for the City to cede their rights, title and interest in the lift station to Oakbrook Apartments, and

WHEREAS, Oakbrook Apartments agreed to be responsible for the total cost of maintaining the pump station, and

WHEREAS, the City Council awarded a contract on June 4, 2002 to D. A. Wood Construction for construction of the project titled "Oakbrook Apartment Lift Station", and

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Oakbrook Apartment Lift Station", has been completed by D.A. Wood Construction, in accordance with the contract agreement dated June 4, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "Oakbrook Apartment Lift Station" project is hereby accepted from said contractor, D.A. Wood Construction, that City Staff is hereby directed to file the Notice of Completion with the Recorder of Stanislaus County and that payment of amounts due totaling \$91,237.14 as provided in the contract, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-212**

A RESOLUTION ACCEPTING A FEDERAL HAZARD ELIMINATION SAFETY (HES) GRANT FOR \$160,200 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE NECESSARY GRANT DOCUMENTS.

WHEREAS, in March, 2003, the City received notice that it was awarded a grant for \$160,200 for the installation of breakaway brackets on existing street light standards on Briggsmore Avenue between Oakdale Road and Claus Road and between Prescott Road and McHenry Avenue within the city of Modesto, and

WHEREAS, this grant will be used to install breakaway brackets on existing street light standards, thereby enhancing safety for motorists, and

WHEREAS, the project grant application was reviewed and approved by the Transportation Policy Committee at its February 21, 2002, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Federal Hazard Elimination Safety grant in the amount of \$160,200.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents for said projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-213**

**A RESOLUTION AMENDING THE FISCAL YEAR 2002-03 CAPITAL
IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING A FEDERAL
HAZARD ELIMINATION SAFETY (HES) GRANT FOR \$160,200 AND
CREATING A NEW CAPITAL IMPROVEMENT PROJECT, ENTITLED
“BRIGGSMORE BREAKAWAY STREET LIGHT MODIFICATIONS.”**

WHEREAS, in March, 2003, the City was awarded a grant of \$160,200 from a Hazard Elimination Safety grant for the installation of breakaway brackets on existing street light standards on Briggsmore Avenue between Oakdale Road and Claus Road and between Prescott Road and McHenry Avenue, and

WHEREAS, said funds can be utilized for the installation of breakaway brackets on existing street light standards within the City of Modesto, thereby enhancing safety for motorists, and

WHEREAS, the project grant application was reviewed and approved by the Transportation Policy Committee at its February 21, 2002, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2002-03 Capital Improvement Program budget accepting a Federal Hazard Elimination Safety grant for \$160,200, with a \$17,800 City match from Gas Tax reserves, for a total of \$178,000 and creating a new Capital Improvement Project entitled “Briggsmore Breakaway Street Light Modifications.”

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-214**

**A RESOLUTION AWARDING BID AND APPROVING A \$90,110 CONTRACT
WITH ON GRADE CONTRACTING FOR THE PROJECT TITLED
“INSTALLATION OF RIGHT-TURN LANE FROM DOWNEY AVENUE ONTO
MCHENRY AVENUE”**

WHEREAS, the bids received for the “Installation of Right-turn Lane From Downey onto McHenry Avenue” project were opened at 11:00 a.m., on April 8, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$90,110 received from On Grade Contracting be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of On Grade Contracting be accepted and the execution of a contract for the completion of the project by the City’s designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-215**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO TRANSFER \$5,000 ACCOUNT NO. 6280-480-5312-0235, "SERVICES, PROFESSIONAL, AND OTHER" TO ACCOUNT NO. 0700-160-H918-6050, "MCHENRY NEEDHAM RIGHT-TURN LANE," TO RECOGNIZE THE ADDITIONAL REVENUE REQUIRED TO PROVIDE SUFFICIENT FUNDS TO FULLY COVER THE ANTICIPATED CONSTRUCTION EXPENSE

WHEREAS, on April 8, 2003, the City Council received bids for a project titled "Installation of Right-turn Lane From Downey Avenue Onto McHenry Avenue," and

WHEREAS, the acceptable low bidder was On Grade Contracting of Jamestown, California, with a bid of \$90,110, and

WHEREAS, the City has obtained Federal Congestion Mitigation and Air Quality (CMAQ) funding to pay for up to \$97,480 of the project costs, and

WHEREAS, \$5,000 in additional local matching funds is required to fully fund the construction of this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Improvement Budget is hereby amended to transfer \$5,000 from Account No. 6280-480-5312-0235, "Services, Professional, and Other" to project Account No. 0700-160-H918-6050, for the "McHenry/Needham Right-turn Lane" to recognize the additional revenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-216**

**A RESOLUTION AWARDING BID AND APPROVING A \$388,200
CONSTRUCTION CONTRACT WITH SB CABLE, JOINT VENTURE FOR THE
PROJECT ENTITLED "EXPAND ATMS NORTHWEST"**

WHEREAS, the bids received for the "Expand ATMS Northwest" project were opened at 11:00 a.m., on April 8, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$388,200 received from SB Cable, Joint Venture be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of SB Cable, Joint Venture, be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 217**

**A RESOLUTION PROCLAIMING MAY 12-17, 2003, "CALIFORNIA BIKE
COMMUTE WEEK 2003."**

WHEREAS, bicycle commuting is an effective means to reduce air pollution, and

WHEREAS, bicycle commuting is an effective means to conserve energy, and

WHEREAS, bicycle commuting helps improve the "livability" of communities by reducing traffic noise and congestion, and

WHEREAS, bicycle transportation is an integral part of the "multi-modal" transportation system planned for by Federal, State, regional, and local transportation government agencies, and

WHEREAS, local bicycle commute promotions, often known as "Bike to Work Days" have been successful at encouraging bicycle commuting, and

WHEREAS, the California Bicycle Coalition, the American Lung Association of California and many public and private groups and individuals have worked together to promote a single week of bicycle commuting, and

WHEREAS, the month of May is "Clean Air Month" as part of the American Lung Association of California's efforts to promote air quality, and

WHEREAS, the month of May is National Bike Month to promote the bicycle as a means of transportation and recreation, and

WHEREAS, The City is co-sponsoring Modesto Bike to Work Day on May 15, 2003, and

WHEREAS, May 17, 2003, will be celebrated with the Seventh Annual "Modesto Family Cycling Festival & Criterium,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Modesto City Council urges all citizens to recognize the importance and benefits of bicycling as a zero-polluting transportation alternative, and hereby proclaims May 12-17, 2003, as "California Bike Commute Week 2003."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-218**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$458,711
CONTRACT WITH JAMES M. JOHNSON GENERAL ENGINEERING, INC.,
FOR THE PROJECT TITLED "CARPENTER ROAD WATERLINE"**

WHEREAS, the bids received for the CARPENTER ROAD WATERLINE project, were opened at 11:00 a.m. on April 22, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$458,711 received from JAMES M. JOHNSON GENERAL ENGINEERING, INC., be accepted as the lowest responsible bid and the contract be awarded to JAMES M. JOHNSON GENERAL ENGINEERING, INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$458,711, and hereby awards JAMES M. JOHNSON GENERAL ENGINEERING, INC., the contract titled "CARPENTER ROAD WATERLINE."

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 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-219**

**A RESOLUTION REJECTING THE BID FOR THE PROJECT TITLED
“WASTEWATER COLLECTION MAINTENANCE BUILDING – INTERIOR
IMPROVEMENTS” AND AUTHORIZING THE PROJECT BE RE-
ADVERTISED AT A LATER DATE**

WHEREAS, the bids received for Wastewater Collection Maintenance Building – Interior Improvements were opened at 11:00 a.m. on April 1, 2003, 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 staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for Wastewater Collection Maintenance Building – Interior Improvements, opened in the office of the City Clerk on April 1, 2003, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at later date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 220**

**A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL
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 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 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 May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)	Document Total
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Budget Adjustments for the Month of April, 2003
City Manager's Office/Community Facilities Districts

1) Appropriation	VI One-Time Facilities Tax	2600	020	0208	5900	26008C	3,288,575	-395,000	2,893,575	
		2600	700	Q200	7135		0	395,000	395,000	
1) Appropriation	Ustach Neighborhood Park - All	1350	310	Q200	6040		0	395,000	395,000	
		1350	700	Q200	9260		0	-395,000	-395,000	
Justification: Transfer funds from the Village One CFD one-time tax account to CIP Q200 for construction of Phases 1 & 2 of Ustach Park (PK-003A). This project is a Priority 1 project										
2) Appropriation	Construction Cost	2600	020	Q300	6040		0	899,000	899,000	
	Engineering/Design	2600	020	Q300	6010		0	90,000	90,000	
	Construction Contingency	2600	020	Q300	6050		0	135,000	135,000	
	Construction Administration	2600	020	Q300	6060		0	90,000	90,000	
2) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		7,419,714	-1,214,000	6,205,714	
Justification Create a CIP account - construction of Bear Cub Lane, Hillglen Ave., and Kodiak Drive adjacent to the West Basin and Ustach Park site. Project Title: West Basin & Ustach Park Frontage (SD-302)										
3) Appropriation	Construction Cost	2600	020	Q301	6040		0	377,000	377,000	
	Engineering/Design	2600	020	Q301	6010		0	38,000	38,000	
	Construction Contingency	2600	020	Q301	6050		0	57,000	57,000	
	Construction Administration	2600	020	Q301	6060		0	38,000	38,000	
	Land Acquisition	2600	020	Q301	6030		0	100,000	100,000	
3) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		6,205,714	-610,000	5,595,714	
Justification Create a CIP account - acquire the necessary right of way and construct approximately 1,600 ft. of 60" RCP along Hillglen Ave. between Roselle Ave. and Esta Ave. Project Title: Hillglen Avenue 60" RCP from Roselle to Esta (SD-205)										
4) Appropriation	Construction Cost	2600	020	Q302	6040		0	1,549,000	1,549,000	
	Engineering/Design	2600	020	Q302	6010		0	156,000	156,000	
	Construction Contingency	2600	020	Q302	6050		0	232,000	232,000	
	Construction Administration	2600	020	Q302	6060		0	156,000	156,000	
4) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		5,595,714	-2,093,000	3,502,714	
Justification Create a CIP account for the Village One Storm Drainage Improvements Project Title: Village One Storm Drainage Improvements (SD-201 through 204, 206, 209, 210)										
5) Appropriation	Construction Cost	2600	020	Q309	6040		0	779,000	779,000	
	Engineering/Design	2600	020	Q309	6010		0	78,000	78,000	
	Construction Contingency	2600	020	Q309	6050		0	117,000	117,000	
	Construction Administration	2600	020	Q309	6060		0	78,000	78,000	
5) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		3,502,714	-1,052,000	2,450,714	
Justification Create a CIP account - Construct a 24" FM (PVC) from the West Basin to the Central Basin. Project Title - Force Main from West Basin to Central Basin (7000' of PVC FM (C-905)) (SD-207)										
6) Appropriation	Engineering/Design	2600	020	Q310	6010		0	121,000	121,000	
6) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		2,450,714	-121,000	2,329,714	
Justification Create a CIP account - construct a pedestrian overcrossing across Sylvan Ave. adjacent to the future Village One high school site. Project Title: Pedestrian Overcrossing (RD-006)										
7) Appropriation	Engineering/Design	2600	020	Q311	6010		0	27,000	27,000	
	Land Acquisition	2600	020	Q311	6030		0	403,000	403,000	
7) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		2,329,714	-430,000	1,899,714	
Justification Create a CIP account - acquire necessary ROW and construct the road improvements along the south side of Sylvan Ave. between Aria Wy. and Wood Sorrel. Project Title: Sylvan Avenue - South side in front of Symphony Park (Wood Sorrel to Aria) (RD-002)										

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)	Document Total
8) Appropriation	Engineering/Design	2600	020	Q312	6010		0	124,000	124,000	
8) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		1,899,714	-124,000	1,775,714	
Justification	Acquire the necessary right of way and construct the ultimate improvement at the intersection of Roselle Ave. and Sylvan Ave. per the approved Facilities Master Plan. Sylvan & Roselle Intersection - Intersection Control & Road Widening (INT-010)									
9) Appropriation	Engineering/Design	2600	020	Q314	6010		0	7,000	7,000	
9) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		1,775,714	-7,000	1,768,714	
Justification	Construct approximately 700 feet of 30" RCP storm drainage overflow line along Merle Ave. 700' of 30" RCP from Merle to Central Basin (SD-212)									
10) Appropriation	Engineering/Design	2600	020	Q315	6010		0	10,000	10,000	
10) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		1,768,714	-10,000	1,758,714	
Justification	Construct the road improvements along the south side of Merle Ave. adjacent to the Central Basin property. Merle Avenue Road Improvement adjacent to the Central Basin (SD-228)									
11) Appropriation	Engineering/Design	2600	020	Q316	6010		0	111,000	111,000	
11) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		1,758,714	-111,000	1,647,714	
Justification	Landscape the West Basin per plan prepared by RHAA. Landscape West Basin per RHAA plan (SD-214)									
12) Appropriation	Engineering/Design	2600	020	Q317	6010		0	60,000	60,000	
12) Revenue	Reserve CAP Fees Facilities	2600	800	8000	8408		1,647,714	-60,000	1,587,714	
Justification	Construct full road improvements along the south side of Sylvan Ave. between Oakdale Rd. and Wood Sorrel. Sylvan Ave. - South side between Oakdale Rd. and Wood Sorrel (RD-001A)									
13) Appropriation	Construction Cost	2680	020	Q318	6040		0	880,000	880,000	
	Engineering/Design	2680	020	Q318	6010		0	132,000	132,000	
	Construction Contingency	2680	020	Q318	6050		0	132,000	132,000	
	Construction Administration	2680	020	Q318	6060		0	87,000	87,000	
13) Revenue	CB-PS (Tax Area A - CAP Facilities)	2670	020	0208	9267		0	566,000	566,000	
	CB-PS (Tax Area B - CAP Facilities)	2680	020	0208	5301		0	665,000	665,000	
Justification	Create a CIP account - Storm Drainage Basins and Pump Station on Prescott (Pelandale to Snyder) Project Title - Storm Drainage Basins and Pump Station on Prescott (Pelandale to Snyder)									
14) Appropriation	Construction Cost	2680	020	Q319	6040		0	334,000	334,000	
	Engineering/Design	2680	020	Q319	6010		0	23,000	23,000	
	Construction Contingency	2680	020	Q319	6050		0	44,000	44,000	
	Construction Administration	2680	020	Q319	6060		0	15,000	15,000	
14) Revenue	CB-PS (Tax Area B - CAP Facilities)	2680	020	0208	5301		0	416,000	1,183,000	
Justification	Create a CIP account - construction of Prescott Road Improvements (Bangs to Snyder) Project Title - Prescott Road Improvements (Bangs to Snyder)									
15) Appropriation	Transfer-Out from Fd 1310	1310	700	M168	7130	M168G	160,000	-160,000	0	
Revenue	Transfer-In to Fd 1300	1300	700	M168	9131	n/a	160,000	-160,000	0	
Justification	Move Transfer from 1310 to 0100. Project is not CFF eligible.									
Appropriation	Transfer-Out from Gen Fd.	1300	700	M168	7010	M168G	0	160,000	160,000	
Revenue	Transfer-In to Fd 1300	0100	700	M168	9130	n/a	0	160,000	160,000	
Justification	Move Transfer from 0100 to 1300. Project is not CFF eligible.									

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Department: City Manager's Office/CFD Division
 Department Head _____
 Date _____

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-222

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MIKE
BIRCH FROM THE PUBLIC EVENTS ADVISORY COMMITTEE**

WHEREAS, MIKE BIRCH was appointed members of the Public Events Advisory
Committee on June 25, 2002, and

WHEREAS, MIKE BIRCH has tendered his resignation from the Public Events Advisory
Committee, and

WHEREAS, MIKE BIRCH has been devoted and sincere public servants and have
contributed greatly to our civic progress,

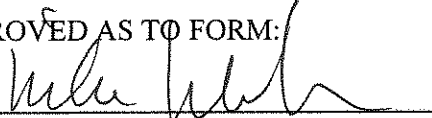
NOW, THEREFORE, BE IT RESOLVED that the resignation of MIKE BIRCH from the
Public Events Advisory Committee be, and hereby is, accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own
behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to
MIKE BIRCH for their outstanding service.

The foregoing resolution was introduced at a regular meeting of the Council of the City
of Modesto held on the 6th day of May, 2003 by Councilmember Frohman, who moved its
adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call
carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST:



JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-223**

A RESOLUTION CERTIFYING THAT THE VILLAGE ONE PROGRAM EIR (SCH #90020181) WITH ADDENDUMS, PREPARED BY CAMP DRESSER & MCKEE, FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE (EA/CM 2003-02) AND BY JONES & STOKES FOR THE VILLAGE ONE FACILITIES MASTER PLAN UPDATE (EA/CM 2003-03) IS ADEQUATE FOR THE PROJECT; ADOPTING FINDINGS THAT NO SUBSEQUENT EIR IS REQUIRED FOR THE PROJECT PURSUANT TO CEQA GUIDELINES SECTIONS 15162 AND 15164, AND ADOPTING FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE PROJECT, PURSUANT TO PUBLIC RESOURCES SECTION 21081 AND STATE CEQA GUIDELINES SECTION 15091

WHEREAS, Section 15168 of the California Environmental Quality Act provides for the preparation of Program Environmental Impact Reports (EIRs) on a series of actions that can be characterized as one project; and

WHEREAS, in 1990, the Modesto City Council adopted Resolution No. 90-757 certifying that the Village One Final Program Environment Impact Report ("Village One EIR") (SCH# 90020181) was complete and adequate pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15090; and

WHEREAS, in 1994 the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report ("Supplemental EIR") for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One Final Program EIR; and

WHEREAS, the City made certain findings regarding the environmental effects disclosed in the 1990 Program EIR and the 1994 Supplemental EIR in accordance with the requirements of Section 21081 of the California Environmental Quality Act (CEQA), and adopted statements of overriding considerations regarding unavoidable significant

environmental impacts in accordance with CEQA prior to approving the Village One Specific Plan and SPA No. 4; and

WHEREAS, the City adopted a Mitigation Monitoring Plan as part of Resolution No. 90-757 and replaced that Mitigation Monitoring Plan through Resolution No. 94-298; and

WHEREAS, the development of the utility infrastructure for the Village One Specific Plan area is contemplated by, and acknowledged within, the Village One EIR, as amended by the Supplemental EIR; and

WHEREAS, the City proposes to update the Village One Facilities Master Plan and the Storm Drainage Master Plan for the Village One Community Facilities District; and

WHEREAS, the City has evaluated the potential environmental effects of the Village One Facilities Master Plan Update – May 2003, in light of the Village One EIR, as amended by the Supplemental EIR, as provided by Section 15168 of the CEQA Guidelines in a systematic fashion using a written checklist as encouraged by Section 15168(c)(4); and

WHEREAS, the City has evaluated the potential environmental effects of the Storm Drainage Master Plan Update for the Village One Community Facilities District (which is incorporated into and made a part of the Village One Facilities Master Plan Update – May 2003), in light of the Village One EIR, as amended by the Supplemental EIR, as provided by Section 15168 of the CEQA Guidelines in a systematic fashion using a written checklist as encouraged by Section 15168(c)(4); and

WHEREAS, the checklists completed by the City found 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 EIR, as amended by the Supplemental EIR or are less than significant; and

WHEREAS, the City has considered Section 15162 of the CEQA Guidelines and determined that (1) the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update do not represent a substantial change in the Village One Specific Plan project which would require major revisions of the Village One EIR as amended by the Supplemental EIR; (2) the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update do not result in new significant environmental effects and require revisions to the Village One EIR as amended by the Supplemental EIR; and (3) the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update would not generate new information of substantial importance that was not known in the Village One EIR, as amended by the Supplemental EIR; and

WHEREAS, CEQA Guidelines Section 15164(a) provides that lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR have occurred; and

WHEREAS, based on the above information, City staff prepared Addendums for the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update pursuant to CEQA Guidelines Section 15164. A copy of the Addendum for the Village One Facilities Master Plan Update - May 2003 is attached as

Exhibit “A” hereto, and a copy of the Addendum for the Storm Drainage Master Plan Update is attached as **Exhibit “B”** hereto.

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

SECTION 1. The City Council has reviewed and considered the information contained in the CEQA checklist completed for the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update and approves the information and analysis provided therein as an Addendum to the Village One EIR, as amended by the Supplemental EIR, pursuant to Section 15164 of the CEQA Guidelines;

SECTION 2. That the City Council hereby adopts the findings (attached hereto as Exhibit “C” and incorporated herein by reference) required by Section 15091 of the CEQA Guidelines, as specifically related to the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update, which are on file in the Office of the City Clerk;

SECTION 3. That the City Council hereby adopts a Statement of Overriding Considerations (attached hereto as **Exhibit “D”** and incorporated herein by reference) as required by Section 15093 of the CEQA Guidelines relative to an unavoidable adverse environmental effect that could be considered to be associated with the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update; and

SECTION 4. That the City Council hereby readopts the Village One Specific Plan Mitigation Monitoring Plan, previously adopted as Exhibit A to Resolution 94-298, in order to affirm that the mitigation measures, and monitoring thereof, that were previously approved would also apply to the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update.

SECTION 5. The City Council has reviewed and considered the information contained in the CEQA checklist completed for the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update for Village One Community Facilities District and approves the information and analysis provided therein as Addendum to the Village One EIR, as amended by the Supplemental EIR, pursuant to Section 15164 of the CEQA Guidelines;

SECTION 6. That the City Council hereby adopts the findings (attached hereto as **Exhibit “C”** and incorporated herein by reference) required by Section 15091 of the CEQA Guidelines, as specifically related to the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update for Village One Community Facilities District, which are on file in the Office of the City Clerk;

SECTION 7. That the City Council hereby adopts a Statement of Overriding Considerations (attached hereto as Exhibit “D” and incorporated herein by reference) as required by Section 15093 of the CEQA Guidelines relative to an unavoidable adverse environmental effect that could be considered to be associated with the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update for Village One Community Facilities District; and

SECTION 8. That the City Council hereby readopts the Village One Specific Plan Mitigation Monitoring Plan, previously adopted as Exhibit A to Resolution 94-298, in order to affirm that the mitigation measures, and monitoring thereof, that were previously approved would also apply to the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update for Village One Community Facilities District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, 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: Conrad, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT "A"

Checklist for Village One Facilities Master Plan Update– May 2003

**Addendum to the Village One Specific Plan
Program Environmental Impact Report for the
Village One Facilities Master Plan Update**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Rich Ulm
209/577-5215

Prepared by:

Jones & Stokes
2600 V Street
Sacramento, CA 95818-1914
Contact: Sally Zeff
916/737-3000

April 2003

Jones & Stokes. 2003. *Addendum to the Village One Specific Plan program environmental impact report for the Village One Facilities Master Plan Update*. April. (J&S 03-087.) Sacramento, CA. Prepared for City of Modesto, Modesto, CA.

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Chapter 1

Introduction and Project Description

Introduction

The City of Modesto (City) is proposing an update to the Village One Facilities Master Plan (FMP) (City of Modesto 1996). This document presents an evaluation of the proposed update (i.e., the proposed project) under the California Environmental Quality Act (CEQA). Previously, the City prepared and certified a program-level environmental impact report (EIR) for the Village One Specific Plan (City of Modesto 1990a, 1990b). The Village One Specific Plan was adopted, and its program EIR certified, in 1990. In 1994, the City certified a supplement to the program EIR (1994 Supplement) that incorporated by reference most of the analyses and determinations contained in the 1990 program EIR. The 1994 Supplement (City of Modesto 1994) addressed four revisions to the Village One Specific Plan and was intended, by its own terms, to “become the project EIR for the revised specific plan.” It is this document that was used as the basis of analysis for the proposed update.

Specifically, this document assesses the extent to which the environmental effects of the Village One FMP Update are adequately addressed by the existing Village One Specific Plan program EIR. Because this document contains the evidence for determining whether the environmental effects of the proposed project are covered by the previously prepared program-level EIR, it is considered an “addendum” to that EIR.

A detailed description of the proposed project is presented starting on page 1-5 of this document.

CEQA Basis for Use of the Program EIR for this Project

Use of Program EIR for Subsequent Project

Section 15168(c) of the State CEQA Guidelines describes how a program-level EIR can be applied to subsequent actions, as follows.

Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

- (1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration.
- (2) If the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.
- (3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.
- (4) Where the subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.
- (5) A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

Findings that No Subsequent EIR is Required

Section 15162 of the State CEQA Guidelines describes the conditions under which a subsequent EIR must be prepared.

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
 - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at

the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be 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 previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

This Addendum includes information and analysis supporting the finding that the conditions set forth in Section 15162 are not met. The conclusions of the analysis are summarized below.

Substantial Changes to the Project

The proposed Village One FMP Update will not change the characteristics of the project as it was assessed in the Village One Specific Plan Program EIR as supplemented. The only changes resulting from the Village One FMP Update will be in the cost estimates for financing infrastructure and public improvements.

Substantial Changes in the Circumstances under Which the Project Is Undertaken

A great deal of construction has occurred in the Village One Specific Plan area. This construction has been implementation of the Specific Plan. The circumstances of the project are not substantially different.

New Information

As detailed in this document, no new information has become available that shows that the project will significant effects not discussed in the previous EIR; that significant effects previously examined will be substantially more severe than shown in the previous EIR; or that mitigation measures or alternatives

previously found infeasible or unacceptable are now feasible or could be implemented.

Use of Addendum to the Previous EIR

Section 15164(a) of the State CEQA Guidelines states that an addendum to the previous EIR can be prepared if none of the conditions described in Section 15162 are met. As described in Section 15164, the Addendum need not be circulated for public review, and must be considered with the Final EIR (in this case the Village One Specific Plan Program EIR) prior to making a decision on the project.

This addendum was prepared to present the evidence supporting the findings under Sections 15168(c)(2) and 15162 of the State CEQA Guidelines. The proposed project generally falls within the scope of the Program EIR, but, since the project consists of an update to the Facilities Master Plan, which was not specifically described in the Program EIR as one of the actions, an addendum was prepared to identify how the Program EIR covered the potential environmental effects of the proposed Village One FMP Update.

History of the Village One Specific Plan Program EIR

The Village One Specific Plan was adopted, and its program EIR certified, in 1990. In 1994, the City certified a supplement to the program EIR (1994 Supplement) that incorporated by reference most of the analyses and determinations contained in the 1990 program EIR. The 1994 Supplement (City of Modesto 1994) addressed four revisions to the Village One Specific Plan and was intended, by its own terms, to "become the project EIR for the revised specific plan."

The 1994 Supplement examined each of the 145 mitigation measures adopted in the 1990 program EIR and eliminated those that were redundant or that were contained in city policies. The 1994 Supplement adopted a total of 40 mitigation measures that now apply to the Village One Specific Plan. It also included the results of updated specific plan traffic, noise, and air quality analyses undertaken for the specific plan.

Checklist

This document contains a checklist that was used to assess, for each of the potentially affected resources or topics, whether the proposed project would result in impacts beyond or greater than those identified in the program EIR (as supplemented in 1994) or require additional mitigation measures. The boxes checked in the checklist reflect the additional impacts resulting from implementation of the proposed project. The written discussion identifies the

impacts from the Village One Specific Plan and provides the basis for determining whether an additional impact would result from implementation of the proposed Village One FMP Update.

In this document, reference is made to the Village One Specific Plan Program EIR (program EIR). This reference is to the Village One Specific Plan EIR as certified in 1990 and supplemented and certified in 1994 (State Clearinghouse No. 90020181). Page number references to the 1994 Supplement document are provided to enable the reader to find the full text of the most recent version of impact and mitigation measures.

Project Description

Project History and Need

Village One Specific Plan

Village One is a planned community in the northeast area of the City of Modesto, California (Figure 1 shows the location of Village One). A specific plan was adopted for the project in 1990. The environmental document for the approval of the specific plan was a program EIR, which was certified in 1990. The program EIR addressed the overall impacts of the Village One Specific Plan, including impacts from development of the proposed land uses and construction of the infrastructure associated with the planned development.

Since 1990, more than half of the lands in Village One have been developed (Figure 1). Amendments to the specific plan were approved in 1994 and 1997. The environmental documents for these approvals were supplemental EIRs based on the 1990 program EIR. Also, Village One was included as one of the planning districts in the City's Urban Area General Plan, adopted in 1995 (City of Modesto 1995).

Village One Facilities Master Plan

The Village One FMP was adopted in June 1996. The purpose of the FMP is to provide uniform guidelines for designing the roads, intersections, traffic signals, storm drainage, parks, and public facilities in Village One. The purpose of the proposed update is to update the cost estimates for the facilities in the master plan that have yet to be constructed. Figure 2 shows the area covered by the FMP. The current status of the facilities is described below.

Facilities Identified in the Facilities Master Plan

The FMP includes projects funded by both the Community Facilities District (CFD) for Village One and citywide Capital Facilities Fee (CFF) funds. Facilities identified in the FMP are listed below.

CFD Projects

- Arterial intersections
- Arterial roads
- Parks (partially funded by CFF and CFD)
- Public facilities—police substation
- Storm drainage

CFF Projects

- Expressways
- Traffic Control Devices
- Parks (partially funded by CFF and CFD)
- Public facilities—fire station

Utility Projects

- Sanitary sewer system
- Potable water system

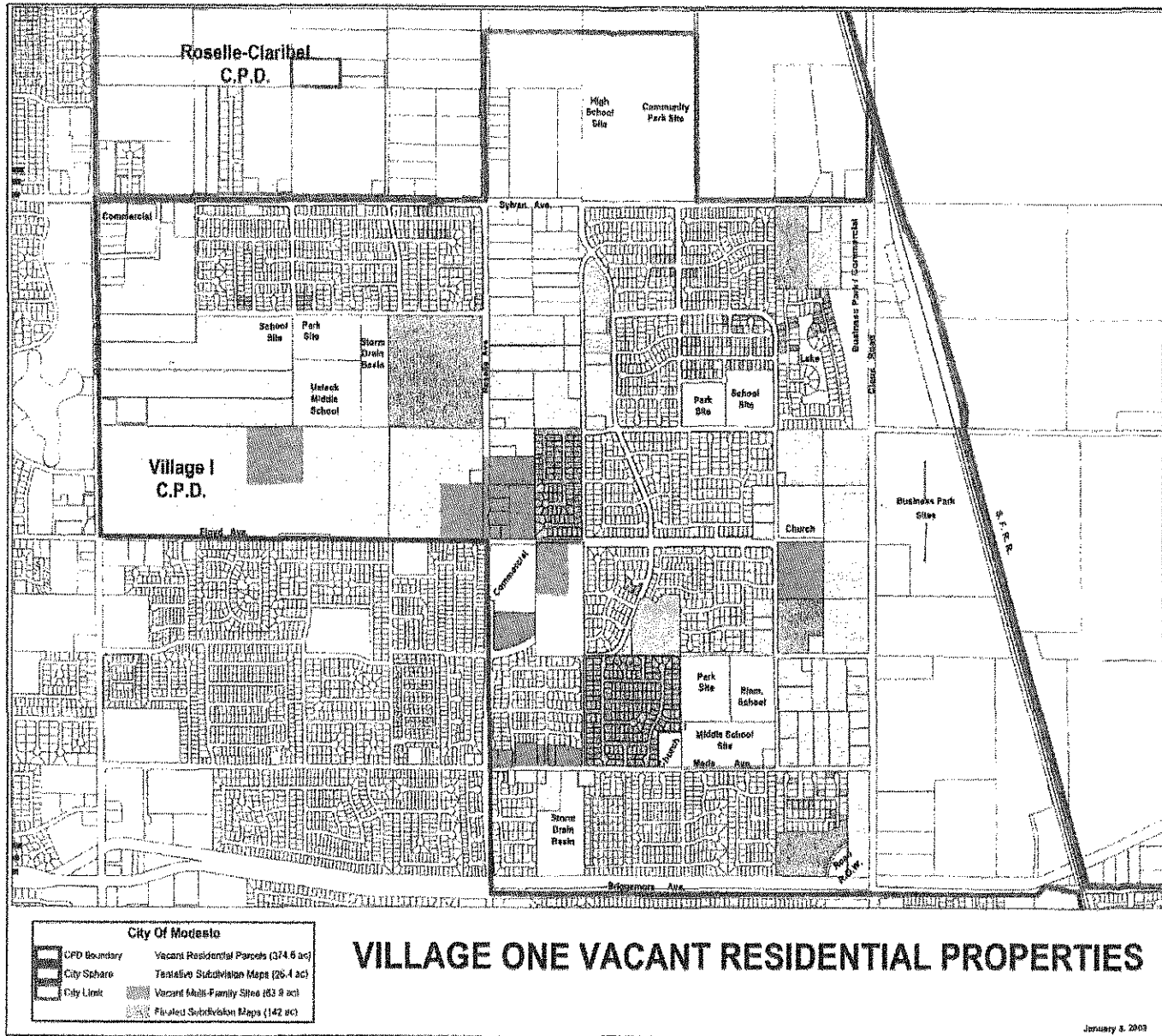
Implementation Status

Traffic Improvements

During the past 12 years, a variety of road improvements have been constructed in the Village One area. For example, approximately 25% of Sylvan Avenue, 5% of Floyd Avenue, and 30% of Roselle Avenue have been constructed within Village One. No improvements have been constructed on Oakdale Avenue. No improvements have been constructed on Briggsmore Avenue or Claus Road. A portion of Briggsmore Avenue is currently under design. One traffic signal has been installed at the intersection of Roselle Avenue and Briggsmore Avenue. Three traffic signal modifications and 15 other traffic control devices have yet to be installed.

Parks and Trails

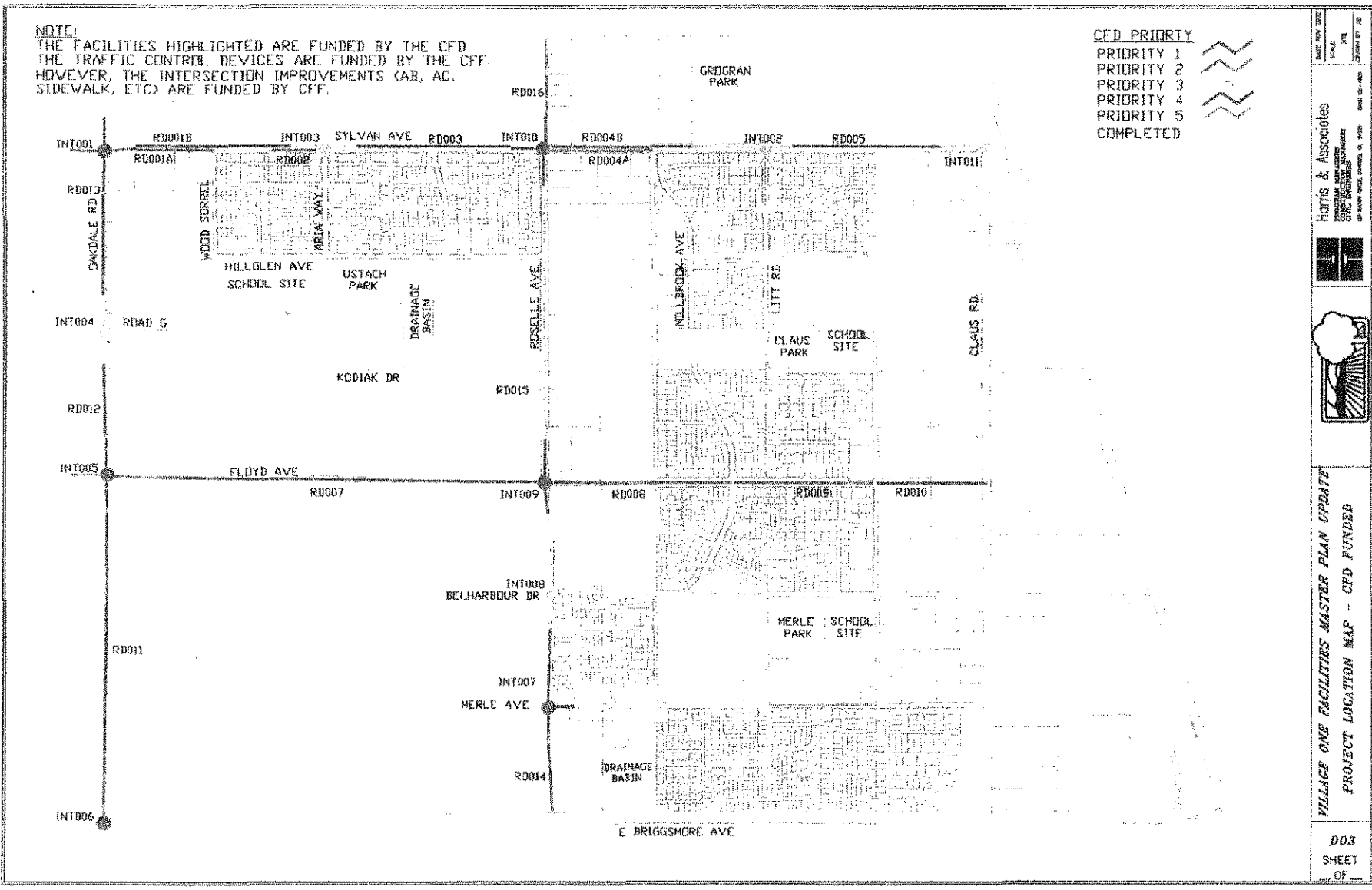
The Village One parks comprise Grogan Community Park, Ustach Neighborhood Park, Claus Neighborhood Park, and Merle Neighborhood Park. Although no park construction has occurred, the land has been acquired for all four parks. No construction has taken place, and only a small amount of land has been acquired for the Modesto Irrigation District (MID) Bike Trail and the Claus Urban Expressway Trail.



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NOTE:
 THE FACILITIES HIGHLIGHTED ARE FUNDED BY THE CFD.
 THE TRAFFIC CONTROL DEVICES ARE FUNDED BY THE CFF.
 HOWEVER, THE INTERSECTION IMPROVEMENTS (AB, AC,
 SIDEWALK, ETC) ARE FUNDED BY CFF.

CFD PRIORITY
 PRIORITY 1
 PRIORITY 2
 PRIORITY 3
 PRIORITY 4
 PRIORITY 5
 COMPLETED



DATE: MAY 2002
 SCALE: 1" = 100'
 SHEET: 003 OF 003

Harris & Associates
 CONSULTING ENGINEERS
 10000 W. 10th Ave., Suite 100
 Denver, CO 80202

**VILLAGE ONE FACILITIES MASTER PLAN UPDATE
 PROJECT LOCATION MAP -- CFD FUNDED**

003
 SHEET
 OF

Figure 2
Facilities Master Plan Area

Police and Fire Facilities

Police and fire protection facilities included in the FMP consist of a police substation storefront lease and fire station improvements. No police substation or fire station improvements have been constructed.

Project Objective and Components

The purpose of the proposed FMP Update is to update the cost estimates for the facilities in the master plan that have yet to be constructed. The following sections describe in more detail the proposed modifications and enhancements to cost estimates.

General Updates

Acquisition of Right-of-Way

The estimated cost for land acquisition was increased from \$40,000 per acre to \$150,000 per acre. In addition to the land cost, a cost of \$30,000 per affected parcel was added for potential condemnation costs. An estimated cost of \$550,000 per acre was included for developed commercial areas. Estimated lump sum costs were added at several residential and commercial sites for house purchase costs, relocation costs, and effects on business.

Relocation of Power Poles

An estimated cost of \$5,000 per pole was added to the arterial road costs to relocate approximately 200 poles owned by MID, Pacific Gas and Electric Company (PG&E), and Pacific Bell. It was initially assumed that these utility companies would relocate the poles at their cost. This is not the case, so the cost has been added to the arterial road costs.

Relocation of the PG&E Gas Line

Relocation of the PG&E gas transmission line had been treated as a separate project in the FMP; however, the proposed FMP Update includes this relocation as part of the Claus Road improvements.

Markups

Markups, which include project costs for administration, engineering, inspection, construction administration, and general contingencies, were increased from 25% to 35% to be more consistent with markups used by other public agencies.

Road Projects around Parks and Drainage Basins

The cost for roads adjacent to parks and drainage basins have removed from the arterial road plan and included with the concept plans for the parks and drainage basins. These roads are listed below.

- Hillglen Avenue
- Bear Cub Lane
- Litt Road
- Sharon Avenue
- Maid Marianne Lane
- Merle Avenue
- Kodiak Drive

Arterial Street Storm Drainage

A proposed storm drainage system, including 24-inch pipes, manholes, and drainage inlets, has been added to the development plans in the FMP Update for Sylvan Avenue, Floyd Avenue, Roselle Avenue, and Oakdale Avenue to better accommodate storm drainage runoff from the roads. This change affects how stormwater runoff is conveyed from these roads to the storm drain system, but does not increase or decrease the amount of stormwater runoff expected. An environmental analysis of the Storm Drain Master Plan Update that includes these changes was prepared separately from this project.

Prevailing Wages

In conformance with Mello Roos law, the project cost estimates have been increased to reflect construction labor costs at prevailing wages.

CFD Projects

Arterial Intersections

The proposed FMP Update does not include changes to the intersections identified in the 1996 master plan. However, the FMP Update includes updated cost estimates for intersections. As a part of the FMP Update, 11 intersections have been identified separately because it may be appropriate to construct the intersections as separate projects, apart from road improvements. This separate identification represents a change in the format of the FMP. The eleven intersections are listed below.

- Sylvan Avenue/Oakdale Avenue
- Sylvan Avenue/Litt Road
- Sylvan Avenue/Aria Way
- Oakdale Avenue/Road G
- Oakdale Avenue/Floyd Avenue
- Oakdale Avenue/Briggsmore Avenue
- Roselle Avenue/Merle Avenue
- Roselle Avenue/BelHarbour Drive
- Roselle Avenue/Floyd Avenue
- Roselle Avenue/Sylvan Avenue
- Claus Road/Sylvan Avenue

Arterial Roads

The proposed FMP Update does not include changes to the roads or travel lanes identified in the 1996 master plan. However, the FMP Update includes updated cost estimates for roads and travel lanes. In addition, a two-phase construction plan for Sylvan Avenue is proposed.

Parks

The proposed FMP Update does not include changes to the park or trail improvements identified in the 1996 master plan. However, the FMP Update includes updated cost estimates for park and trail improvements. In addition, Grogan Community Park has been divided into two separate projects: Phases 1 and 2 and Phases 3 and 4. The funding for the park improvements is still split between CFD and CFF funds. Parks and recreational facilities from the plan, as updated, are listed below.

- Grogan Community Park—Phases 1 and 2
- Grogan Community Park—Phases 3 and 4
- Buffer land
- Ustach Neighborhood Park
- Claus Neighborhood Park
- Merle Neighborhood Park
- MID Bike Trail
- Claus Urban Expressway Trail

Storm Drainage

As a separate project, the City has prepared a Storm Drainage Master Plan and an addendum to the program EIR that covers storm drainage improvements. These documents are available for review at the Planning Division office in the Community and Economic Development Department, located at 1010 Tenth Street, Suite 3300, Modesto, California, 95353.

Police Facilities

The proposed FMP Update does not include changes to the police station improvements identified in the 1996 master plan. Funding for these facilities would not be changed by the FMP Update.

CFF Projects

Expressways

The proposed FMP Update does not include changes to the expressways identified in the 1996 master plan, including Briggsmore Avenue and Claus Road. However, the FMP Update includes updated cost estimates for expressways.

Traffic Control Devices

The proposed FMP Update does not include changes to the traffic control devices identified in the 1996 master plan. However, the FMP Update includes updated cost estimates for traffic control devices. The two options for new traffic control devices consist of installing either traffic signals or roundabouts.

Parks

As discussed above, the proposed FMP Update does not include changes in park or trail improvements identified in the 1996 master plan. However, the FMP Update includes updated cost estimates for park and trail improvements. In addition, Grogan Community Park has been divided into two separate projects.

Fire Facilities

The FMP Update does not include changes to the fire station improvements identified in the 1996 master plan. The fire station serving Village One has not been sited or constructed. Ultimately, the fire station may or may not be located in the Village One development area.

Utility Projects

Sanitary Sewer System

Funding for the Village One sanitary sewer system is not part of the FMP Update. Village One is subject to the conditions and requirements of the City's "Wastewater Master Plan."

Potable Water System

Funding for the Village One potable water system is not part of the FMP Update. Village One is subject to the conditions and requirements of the City's "Water Master Plan."

Surrounding Land Uses and Existing Conditions

The Village One Specific Plan Area is more than half built, as planned and approved under the 1990 Village One Specific Plan. The project area is surrounded by rural, agricultural, and open space land uses to the north and east, and by residential and commercial uses to the south and west. A Union Pacific Railroad (UPRR) line runs along the eastern boundary of the plan area.

Existing development in the Village One Specific Plan Area primarily consists of single-family residences. A middle school has been constructed in the area. Areas developed with housing are described below and shown on Figure 1.

- The area south of Sylvan Avenue and north of Hillglen Avenue, between Wood Sorrel Drive on the west and Roselle Avenue on the east
- The area south of Sylvan Avenue and north of Sharon Avenue, between Esta Avenue on the west and Fine Avenue on the east
- The area north of Briggsmore Avenue and south of Merle Avenue, between Roselle Avenue and Claus Road
- The area south of BelHarbour Drive and north of Merle Avenue, between Roselle Avenue and Dermond Road

EXHIBIT "B"

**Checklist for Storm Drainage Master Plan Update to the
Village One Community Facilities District**

Chapter 2

Written Checklist

1. **Project Title:** Village One Facilities Master Plan Update
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Rich Ulm, Deputy Director
Modesto Engineering and Transportation
Department
209/577-5215
4. **Project Location:** The project would be located in the City of Modesto Village One Specific Plan Area. The area is bounded on the north by Sylvan Avenue, on the east by UPRR tracks, on the south by Briggsmore Avenue and Floyd Avenue, and on the west by Roselle Avenue and Oakdale Road.
5. **Project Sponsor's Name and Address:** City of Modesto
P.O. Box 642
Modesto, CA 95353
6. **General Plan Designation:** The General Plan land use designations include Village Residential (VR) which allows predominantly single-family residential uses; Multi-Family Residential; Senior Housing; School/Park/Basin site; Commercial; and Business Park (BP) which allows light industrial manufacturing, office, associated service retail (and, in Village One, regional commercial) uses.
7. **Zoning:** Specific Plan Overlay S-P-O
8. **Description of Project:** See Chapter 1 for a complete project description
9. **Surrounding Land Uses and Setting:** See Chapter 1 for a description of surrounding land uses and setting.

10. Other Public Agencies whose Approval Is Required: None

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Village One project 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 the Village One project on scenic vistas to be less than significant because views from the project area are minimal. The proposed FMP Update 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 the Village One project would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed FMP Update project because the project area remains the same. There would be no impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that the Village One project would have a less-than-significant impact on the visual character of the area. The proposed FMP Update 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 Village One Specific Plan program EIR found that night lighting proposed as a part of the Village One Village Center might result in undesirable light and glare at adjacent residences, but that plans for public street lighting and private parking lot lighting are routinely reviewed by the City's Public Works department to ensure proper wattage and direction of lighting fixtures, thereby avoiding conflicts with nearby residential areas. This review will reduce the impact of night lighting to a less-than-significant level. The proposed FMP Update project would not change the proposed lighting for the Village Center. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 on the State Important Farmlands Inventory would be lost as a result of the Village One project. This impact was determined to be significant and not mitigable. The proposed FMP Update 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 expired in 2001. 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. This finding would not be affected by the proposed FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, 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 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 FMP Update 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 FMP Update 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 FMP Update would not change the level of construction emissions. There would be no additional impact. No mitigation is required.
- e. The Village One project consists of residential and commercial development and does not contain any components that would create odors. The proposed FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Village One project 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 FMP Update would not change project area boundaries. There would be no additional impact. 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 Village One project area, and so found that the project would have a less-than-significant impact. The proposed FMP Update would not change project area boundaries. There would be no impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that the Village One project 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 FMP Update 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 Village One project area, nor did it find that the project would interfere with the movement of any species. The proposed FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Responses to Checklist Questions

- a.-d. Impacts on cultural resources resulting from the Village One project (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 Village One project would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed FMP Update would not change the locations or types of construction in the project area nor the boundaries of the project area. Construction of roadway improvements will result in effects on scattered existing structures, including five structures older than 45 years old. 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. Qualified architectural historians assessed the five structures and concluded that none of them appear to meet the criteria for listing in the California Register of Historic Resources. Therefore, effects to these properties would not be considered significant, and 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Strong seismic groundshaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update 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 FMP Update 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			
h.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	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 FMP Update 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 that, although hazardous materials were stored at the former Pure-Gro plant, this potential hazard would be adequately mitigated by implementing City regulations (e.g., requiring the owners of the former Pure-Gro site to file a Hazardous Materials Emergency Response Plan with the City of Modesto Fire Department). No significant impacts were identified, and no mitigation measures were required. The proposed FMP Update 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 Village One project would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed FMP Update 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 next to 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 FMP Update 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 FMP Update would not change construction, land use, or other physical attributes of the Village One project. 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 buildout 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 wildland fires is low, and this potential will decrease as buildout continues. Adoption of the proposed FMP Update 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Violate any water quality standards or waste discharge requirements?				
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Otherwise substantially degrade water quality?				
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Place within a 100-year flood hazard area structures that would impede or redirect floodflows?				
i.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?				

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update 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 stormwater runoff and recharge of groundwater. The proposed FMP Update 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 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 FMP Update 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 FMP Update would not change water use or discharge associated with the Village One project. 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 FMP Update 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. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update 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 FMP Update 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 FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Lakewood Avenue, Sylvan Avenue, and Floyd 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 not to a less-than-significant level. The City made a statement of overriding considerations when it certified the 1994 Supplement.

The program EIR also 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 FMP Update 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 FMP Update 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 FMP Update 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 project would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed FMP Update 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 next to 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 FMP Update 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update would not change the amount of housing or employment in the 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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP is an element of City policies and practices that ensures that adequate public services are available. The proposed FMP Update would ensure that cost estimates for funding public service improvements are up to date. The FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP is an element of City policies and practices that ensures that adequate public services, including parks and recreation, are available. The proposed FMP Update would ensure that cost estimates for funding parks and recreation facilities are up to date. The FMP Update 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update 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 FMP Update 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 the Village One project included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed FMP Update 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 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 FMP Update would not change roadway design 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 FMP Update 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 FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 FMP Update would not increase the amount of wastewater that will be generated at buildout 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 FMP Update 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 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 proposed FMP Update would not change the project drainage plans or expected volume of stormwater. 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 the Village One project on water supply would be less than significant. The proposed FMP Update 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 FMP Update 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

- a. As described above, the proposed FMP Update 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 FMP Update 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 FMP Update 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.

Chapter 3 References Cited

- City of Modesto. 1990a. *Village One Specific Plan*. Modesto, CA.
- . 1990b. *Village One Specific Plan program environmental impact report*. Modesto, CA.
- . 1994. *Village One Specific Plan supplemental environmental impact report*. Modesto, CA.
- . 1995. *Modesto Urban Area General Plan*. Modesto, CA.
- . 1996. *Village One Facilities Master Plan*. Modesto, CA.

Appendix A
Cultural Resources Assessment

Cultural Resources

Introduction

This section discusses properties within the project area that are more than 45 year old. In compliance with CEQA, these properties were evaluated for eligibility for inclusion in the California Register of Historic Resources (CRHR).

Regulatory Setting

CEQA requires that public or private projects financed or approved by public agencies be assessed to determine the effects of the projects on historical resources. CEQA uses the term "historical resources" to include buildings, sites, structures, objects or districts, each of which may have historical, pre-historical, architectural, archaeological, cultural, or scientific importance.

CEQA states that if implementation of a project results in significant effects on historical resources, then alternative plans or mitigation measures must be considered; however, only significant historical resources need to be addressed (CCR 15064.5, 15126.4). Therefore, before impacts and mitigation measures can be identified, the significance of historical resources must be determined.

CEQA guidelines define three ways that a property may qualify as a historical resource for the purposes of CEQA review:

- 1) if the resource is listed in or determined eligible for listing in the California Register of Historical Resources,
- 2) if the resource is included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements of section 5024.1(g) of the Public Resources Code unless the preponderance of evidence demonstrates that it is not historically or culturally significant, or
- 3) the lead agency determines the resource to be significant as supported by substantial evidence in light of the whole record (California Code of Regulations, Title 14, Division 6, Chapter 3, section 15064.5(a)).

Each of these ways of qualifying as an historical resource for the purpose of CEQA is related to the eligibility criteria for inclusion in the CRHR (PRC 5020.1(k), 5024.1, 5024.1(g)). A historical resource may be eligible for inclusion in the CRHR if it:

- 1) is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage,
- 2) is associated with the lives of persons important in our past;

Government land was considered ideal as any government grants secured by the railroad in exchange for completion of the route could be located directly along the route's right-of-way. Sales of this granted land by the railroad helped finance the overall construction costs. (Bean and Rawls 1993: 168)

In September of 1869, John James Atherton purchased 160 acres of land near the center of Stanislaus County from Robert Kirkland and David Monroe to use as the site for the new railroad town of Modesto. The total purchase price paid by Atherton for the two 80-acre parcels was \$1,800. Subsequently, Contract and Finance Company, the company responsible for actually constructing the railroad, purchased the property from Atherton. As was common for speculators of the time, Atherton received \$1,400 over the amount he paid in 1869. (Maino 1970: 10)

The town of Modesto became the terminus of the Southern Pacific railroad in 1870 but did not officially incorporate until 1884. Initially, the station from which the town took its name was to be named after William C. Ralston, one of the board of directors of the Central Pacific Railroad (the parent company of SP at the time). When Ralston modestly declined the honor, with no little irony the Spanish adjective meaning "modest" was used instead. During its formative years the town attracted residents of nearby communities including Empire City, Paradise, and Tuolumne City, all of which lacked a coveted rail connection. (Gooch 1988: 32) The wheat boom of California which began in the early 1860s and lasted until 1893 played a key role in the success of Modesto as a commercial and transportation center. Wheat was a rich business that demanded high finances and a strong labor pool throughout the season, both of which were found in Modesto. Given its proximity to the railroad for the shipping of wheat, and the flood of new residents, the success of Modesto as a wheat center was assured until the agricultural changes brought about by the widespread use of irrigation. (Maino 1970: 17)

Modern Modesto Following the Establishment of Irrigation in 1903

As the wheat bonanza came to a close in Stanislaus County during the early 1890s, the residents realized that a dependable system of irrigation was necessary to insure a more stable farm economy. Although irrigation was in use on a limited basis during the last half of the 19th Century, it was not until the early 20th Century that the system, as imagined by the residents of Modesto area, was completed. In June of 1903 irrigation water that had been promised more than 16 years earlier, when the Wright Act (authorizing the creation of irrigation districts) was signed into law, finally arrived. Following years of court battles, many farmers along the main canal accessed irrigation water for the first time. (Barnes 1987: 39)

The Modesto area changed rapidly after the implementation of the new irrigation system. The local population exploded, land prices rose, and the subdivision of larger ranches increased. Almost immediately alfalfa became the dominant crop as its demand increased to supply a new interest in dairying. Another significant change to the area was the cultivation of orchard crops such as peaches, apricots, almonds, and oranges. As the cultivation of alfalfa, orchard, and other crops increased, the processing segment of the agriculture industry, including canning, construction, and financing also grew. (Barnes 1987: 48)

None of the properties appear to be representative of a particular style or method of construction, nor are any of the structures the work of a master. Therefore, none of the properties appear to meet the requirements for inclusion in the CRHR under criterion 3. Only one of the residences, located at 3016 Oakdale Road, maintained enough integrity to convey any significance that it might have had. The remaining properties have been moved or modified to a considerable extent.

Criteria of Effects

According to the California Environmental Quality Act, a project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment (CEQA rev. 1998 Section 15064.5(b)). CEQA further states that a substantial adverse change in the significance of a resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. Actions that would materially impair the significance of a historic resource are any actions that would demolish or adversely alter those physical characteristics of an historical resource that convey its historical significance and qualify it for inclusion in the CRHR or in a local register or survey that meet the requirements of sections 5020.1(k) and 5024.1(g) of the Public Resources Code.

Effects and Mitigation

None of the five properties addressed in this study appear to meet the criteria for listing in the CRHR. Therefore effects to these properties would not be considered significant and no mitigation measures are necessary.

References Cited

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EXHIBIT "B"

**Checklist for Storm Drainage Master Plan Update to the
Village One Community Facilities District**

**ADDENDUM TO THE
1990 PROGRAM ENVIRONMENTAL IMPACT REPORT
FOR THE VILLAGE ONE SPECIFIC PLAN (SCH # 90020181)**

January 22, 2003

TO: Interested Parties/Responsible Agencies

FROM: City of Modesto Community Development Department

**SUBJECT: ADDENDUM TO THE 1990 PROGRAM EIR FOR THE CITY OF
MODESTO STORM DRAINAGE MASTER PLAN UPDATE FOR THE
VILLAGE ONE COMMUNITY FACILITIES DISTRICT**

Attached is a written checklist prepared pursuant to Section 15168(c)(4) of the California Environmental Quality Act (CEQA) Guidelines addressing the impacts of a proposed update to the Village One Storm Drainage Master Plan to implement improvements to the existing storm drainage system within the context of the previously certified Program EIR for the Village One Specific Plan. Included in this transmittal is the written checklist. Supporting documents are incorporated by reference and include:

1. City of Modesto Storm Drainage Master Plan Update for the Village One Community Facilities District (April 2002) prepared by CDM.
2. City of Modesto Preliminary Design Report for Storm Drainage Improvements Village One Community Facilities District (May 2002) prepared by CDM.
3. 1990 Program Environmental Impact Report for the Village One Specific Plan.

All documents are available for review by the public at the Planning Division office within the Community and Economic Development Department, located at 1010 Tenth Street, Suite 3300; Modesto, California 95353.

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WRITTEN CHECKLIST

1. Purpose of the written checklist:

This written checklist evaluates the proposed Storm Water Master Plan Update as part of the Modesto Village One Planned Community, which was previously evaluated in the Village One Final Environmental Impact Report (SCH# 90020181). The project addressed in this written checklist is a proposed update to the storm drainage system master plan planned for Village One, as originally proposed in the 1996 Facilities Master Plan Study. As described in greater detail below, the currently proposed Master Plan Update is intended to provide a greater level of flood protection for Village One through certain enhancements to the original design. Such enhancements generally include proposing new pipelines in certain areas to better accommodate runoff during major storm events, installing two pump stations and associated force mains, to better convey the captured runoff, and increasing the number and/or capacity of onsite detention basins to reduce the potential for localized flooding during major storm events. For the most part, the overall storm drain system for Village One remains as originally proposed and addressed in the Village One Final Environmental Impact Report. This written checklist will review the proposed modifications to the storm drainage master plan to determine whether there are any environmental impacts that have not already been previously contemplated and addressed in the Village One Final Environmental Impact Report. This written checklist will review the proposed Storm Drainage Master Plan Update pursuant to CEQA Guidelines Section 15168(c)(4).

2. Project title:

Addendum to the Program EIR for the City of Modesto Storm Drainage Master Plan Update for the Village One Community Facilities District

3. Lead agency name and address:

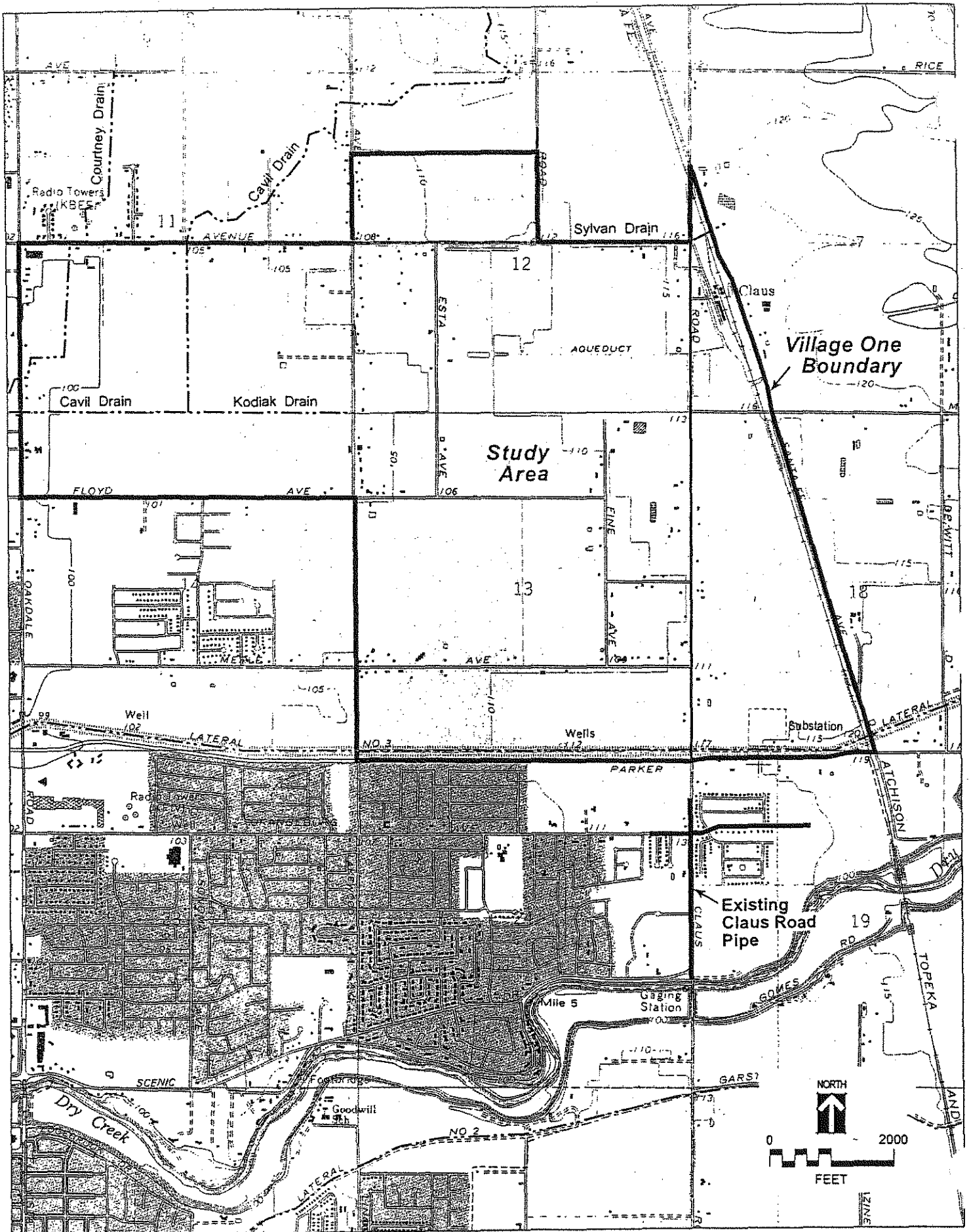
City of Modesto
P.O. Box 642
Modesto, CA 95353

4. Contact person and phone number:

Vickey Dion, Senior Civil Engineer
City Manager's Office
(209) 571-5542

5. Project location:

The project would be located within the City of Modesto Village One Specific Plan area. The Specific Plan area, as shown in Figure 1, Project Location, is generally bound on the north by Sylvan Avenue, on the east by the Union Pacific Railroad tracks, on the south by Briggsmore Avenue and Floyd Avenue, and on the west by Roselle Avenue and Oakdale Road. Specific components of the project are proposed throughout the Plan area and are discussed in "Project Description" below.



Source: USGS 7.5 min Quad Map - Riverbank, CA (1987)

Figure 1
Project Location

6. **Project sponsor's name and address:**

City of Modesto
P.O. Box 642
Modesto, CA 95353

7. **General plan designation:**

The General Plan land use designations include Low Density Residential, Single Family Residential, Multi-Family, Multi-Family Senior, School/Park/Basin, Commercial, and Industrial uses. Designations at proposed detention basin locations include School/Park/Basin land uses.

8. **Zoning:**

Village One Specific Plan

9. **Description of the project:**

Project History and Need

Village One is a planned community in the northeast area of the City of Modesto. A Program Environmental Impact Report was prepared for the Village One Specific Plan in 1990, with a Supplement to the Environmental Impact Report completed in 1994, and Village One was included as one of the planning districts in the City's Urban Area General Plan adopted in 1995. The Village One plan area consists of approximately 1,800 acres, with an ultimate build-out population of 20,000. The Program Environmental Impact Report addressed the overall impacts of the Village One Project, including impacts from development of the proposed land uses and construction of associated infrastructure.

Since adoption of the 1990 Final Environmental Impact Report for the Village One Specific Plan, approximately 50% of the lands within Village One have been developed. Over the past twelve years, storm drainage pipes and temporary and permanent detention basins have been installed. The City's current specifications require that storm water improvements convey run-off from a 5-year storm event. However, elsewhere storm drainage systems are typically designed to accommodate run-off flows from a 10-year storm event. Based on the results of an analysis to determine the existing storm drainage system's capacity to convey storm water flows from a 10-year storm event under ultimate land use conditions, the determination was made that certain modifications and enhancements to the current storm drainage system presented in the Facilities Master Plan of June 1996 are necessary to provide an improved level of flood control and drainage management during major storm events (i.e., 10-year design storm).

Project Objectives

The purpose of the proposed Master Plan Update is to improve storm drainage system capacity infrastructure to ensure adequate capacity for existing and future users, and to provide uniform guidelines for designing the remaining storm drainage facilities in Village One.

Project Components

Components of the proposed Storm Drainage Master Plan Update for the Village One Communities Facilities District (April 2002) would include:

- Design of the West Basin;
- West Basin Pump Station;
- Force main from the West Basin to the Central Basin;
- Central Basin Improvements;
- Central Basin Pump Station;
- Force main from the Central Basin Pump Station to Modesto Irrigation District (MID) Lateral No. 3;
- Detention basin with 7 acre-feet of storage capacity north of Sylvan Avenue near Esta Avenue;
- Detention basin with 5 acre-feet of storage capacity near the intersection of Merle Avenue and Fine Avenue;
- Detention basin with 6 acre-feet of storage capacity north of Merle Avenue near Litt Road;
- 60-inch pipe on Hillglen Avenue from Roselle Avenue to Esta Avenue;
- 36-inch and 48-inch pipe on Kodiak Drive west of Roselle Avenue;
- 30-inch pipe at the west end of Hillglen Avenue;
- 36-inch pipe west of Fine Avenue to the new detention basin north of Merle Avenue near Litt Road;
- 24-inch pipe on Litt Road north of Merle Avenue, and
- 60-inch pipe from Merle Avenue to the Central Basin.

Figure 2, Modeled Stormwater System for Previous Storm Drain Master Plan, and Figure 3, Stormwater System for Currently Proposed Storm Drain Master Plan Update, present the Village One storm drainage system as originally proposed and as currently proposed in the Master Plan Update, respectively. The following describes more fully the modifications and enhancements that are proposed as part of the Master Plan Update.

West Basin Improvements

The previously approved and graded West Basin would receive and detain stormwater for the purpose of reducing the peak rate of run-off to the downstream storm drainage system. Run-off waters would enter the 65 acre-foot basin via a 78-inch pipe from Hillglen Avenue on the north. Once improved, waters would also enter the basin via pipes located in Kodiak Drive and Bear Cub Lane to the south and west. The basin has three tiers with bottom elevations of 86-feet, 92-feet and 96-feet. The shallowest, or highest, tier is located at the north end of the basin, along Hillglen Avenue, and the deepest, or lowest, tier is at the south end of the basin, along Kodiak Drive. Recreational use, following trimming and improvement activities at the basin, will be available for the two highest tiers at times when run-off volumes are low; however, all three tiers will hold run-off water during periods of significant rainfall and run-off.

A 12-foot wide asphalt concrete access road will be located on the east side of the West Basin, and an access path will be provided on the west and south side of the lowest tier of the basin to allow for maintenance. A 12-foot wide access road will also be provided down into the bottom of the lowest tier of the basin. Fencing will be placed around the lowest tier of the basin to keep people out of this tier of the dual-use park/basin.

West Basin Pump Station

Run-off waters would be removed from the West Basin, and directed toward the Central Basin, by a pump station located at the south side of the lowest tier. Some infiltration of stored run-off water would also be recharged into the groundwater basin. To allow maintenance vehicles to enter

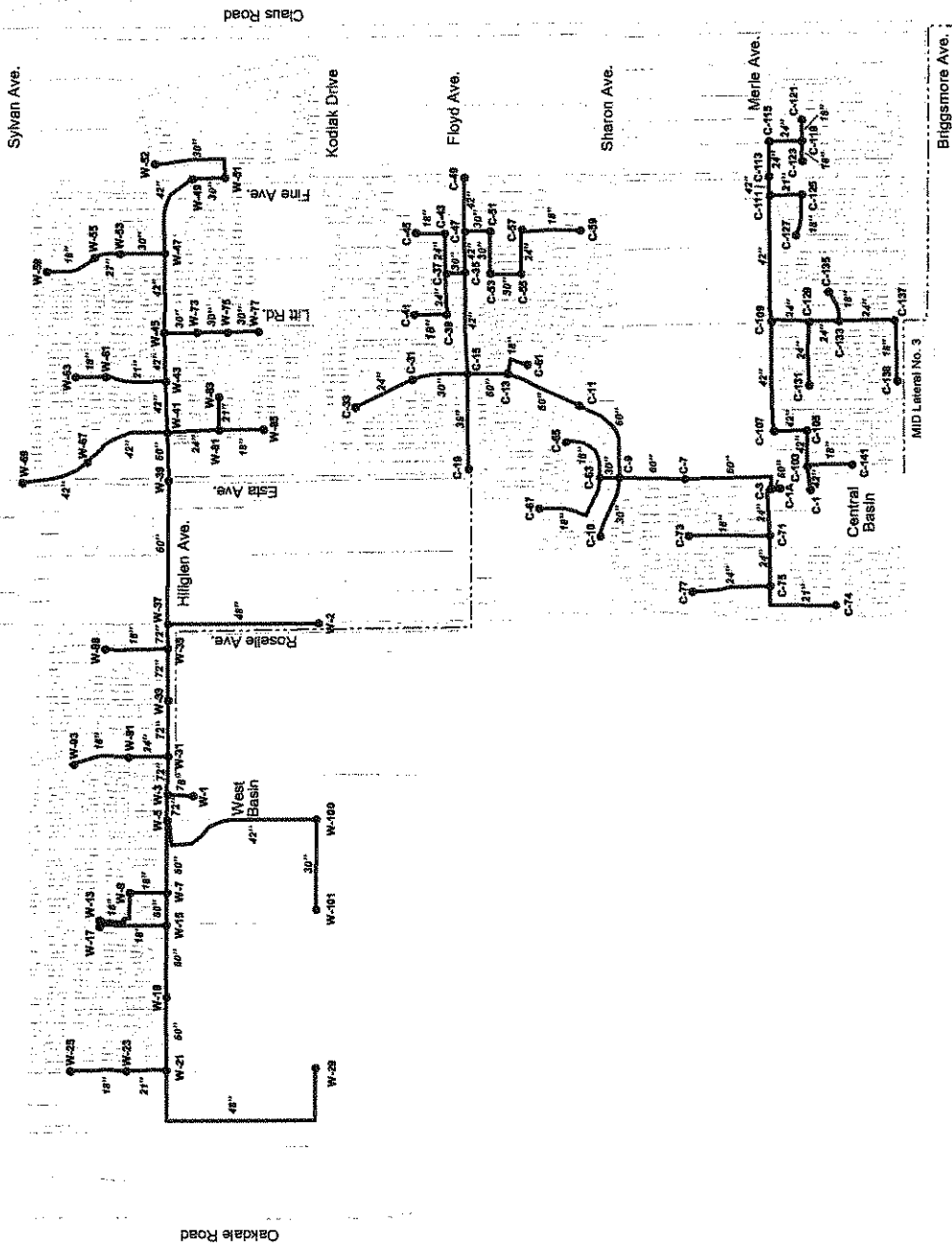
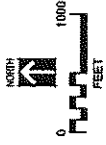
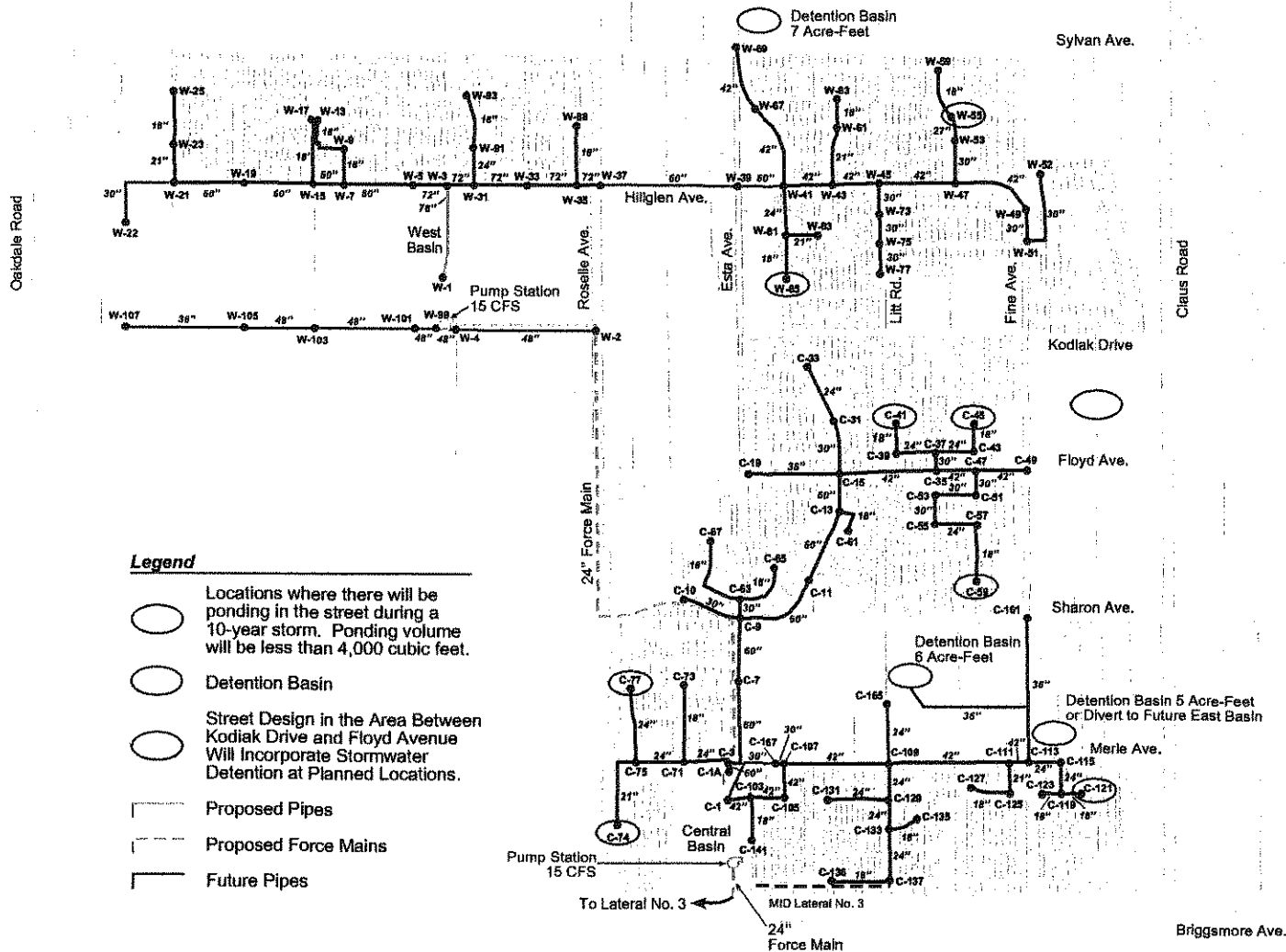
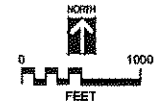


Figure 2
 Modeled Stormwater Drain System for
 Previous Storm Drain Master Plan



Legend

- Locations where there will be ponding in the street during a 10-year storm. Ponding volume will be less than 4,000 cubic feet.
- Detention Basin
- Street Design in the Area Between Kodiak Drive and Floyd Avenue Will Incorporate Stormwater Detention at Planned Locations.
- Proposed Pipes
- Proposed Force Mains
- Future Pipes

Figure 3
Stormwater System for
Currently Proposed Storm Drain
Master Plan Update

and service the pump station, a gate in the fence around the lowest tier and an asphalt concrete access path would be provided.

Similar to the pump system at the Chapman Road detention basin, the three proposed pumps would be below grade in the sump, and the discharge pipes would be above grade. Water in the West Basin would flow to the basin outlet, enter a 30-inch suction pipe, and flow into the pump sump. The water would then be pumped from the sump and discharged into a 24-inch force main. Three 7.5 cubic feet per second (cfs) pumps, each driven by a 60 horsepower electric motor, would be included in the design. Two of the three pumps operating together would meet the peak outflow requirement of 15 cfs. The third pump would serve as a standby unit. The motor control center, meter, and SCADA equipment would be housed in waterproof enclosures adjacent to the pump station.

Force Main from the West Basin Pump Station

Run-off water pumped from the West Basin by the West Basin Pump Station would be conveyed in a 24-inch force main, a PVC water pipe capable of withstanding internal water pressure, south approximately 60 feet, turning east along Kodiak Drive to Roselle Avenue, turning south along Roselle Avenue to Belharbour Drive, turning east along Belharbour Drive to Dermond Road, turning south along Dermond Road, turning west on Merle Avenue, and finally turning south into the Central Basin. In sum, the complete length of the force main would be approximately 7,000 feet.

Central Basin

The previously approved and graded Central Basin has a bottom elevation of 90 feet and covers approximately 7.3 acres at elevation 110 feet. The Central Basin has a storage capacity of 50 acre-feet and has side slopes of 4 horizontal to 1 vertical.

The existing basin receives run-off from the north via a 60-inch pipe and a 24-inch pipe. Run-off also enters the basin via a 42-inch pipe from the east. These three basin inflow pipes will continue to convey run-off to the enlarged Central Basin. Additional waters would also enter the basin from the north via a proposed future pipe and the proposed 240-inch force main from the West Basin Pump Station.

Central Basin Pump Station

Run-off waters would be removed from the Central Basin by a pump station that would be located near the southeast corner of the Central Basin. This pump station would be similar to the West Basin Pump Station. The pumps would be below grade in the pump sump, and the discharge pipes would be above grade.

Water in the Central Basin would flow to the basin outlet, enter a 30-inch suction pipe, and flow into the pump sump. The water would be pumped from the sump and discharged into a 24-inch force main. Three 7.5 cfs pumps, each driven by a 25 horsepower electric motor, would be included in the design. Two of the three pumps operating together would meet the peak outflow requirement of 15 cfs. The third pump would serve as a standby unit. The motor control center, meter, and SCADA equipment would be housed in waterproof enclosures adjacent to the pump station.

Force Main from the Central Basin Pump Station

Waters pumped from the Central Basin by the Central Basin Pump Station would be conveyed in a 24-inch force main south approximately 300 feet to the Modesto Irrigation District Lateral No.

3 open canal. The force main would be 24-inch PVC water pipe capable of withstanding internal water pressure.

Three New Detention Basins

Three new detention basins are proposed to collect storm water run-off throughout additional areas of the Village One project. As depicted in Figure 3, the proposed basin north of Sylvan Avenue near Esta Avenue would have a storage capacity of 7 acre-feet, the basin proposed near Merle Avenue and Fine Avenue would have a storage capacity of approximately 5 acre-feet, and the basin proposed north of Merle Avenue near Litt Road would have a storage capacity of 6 acre-feet. Currently, the land at each of the three proposed detention basin locations is not in productive use. In the recent past, the proposed detention basin sites were for agricultural production.

Pipeline Installation

The Master Plan Update proposes the installation of additional pipelines in Hillglen Avenue, Kodiak Drive, Litt Road, north of Merle Avenue, and along Merle Avenue into the Central Basin as existing roads undergo improvements, and new roads are constructed. Figure 3 shows the exact locations of the proposed pipelines. Installation of the additional pipelines would assist in draining storm water run-off throughout the Village One Specific Plan area. Currently constructed roads in the project area that would be affected by pipeline installation include Kodiak Drive and Merle Avenue. The proposed pipelines in Hillglen Avenue, portions of Kodiak Drive, Litt Road, and north of Merle Avenue between Litt Road and Fine Avenue would be installed at the time of roadway construction.

10. Surrounding land uses and environmental setting:

The Village One Specific Plan area is approximately 50% built-out, as planned and approved in the 1990 Village One Specific Plan. The project area is surrounded by rural, agricultural, and open space land uses to the north and east, and by residential and commercial uses to the south and west. A Union Pacific Railroad line runs along the eastern boundary of the Plan area.

Existing development in the Village One Specific Plan area primarily consists of single-family residences and two schools. Housing communities developed and occupied are generally bound by:

- South of Sylvan Avenue and north of Hillglen Avenue, between Wood Sorrel Drive on the west and Roselle Avenue on the east;
- South of Sylvan Avenue and north of Sharon Avenue, between Esta Avenue on the west and Fine Avenue on the east;
- North of Briggsmore Avenue and south of Merle Avenue, between Roselle Avenue and Claus Road; and
- North of Merle Avenue and south of Belharbour Drive, between Roselle Avenue and Dermond Road.

The remainder of the Village One Specific Plan area is occupied by open grasslands, rural homes with lots at least one acre in size, small farms, and graded land undergoing preparations for development. One middle school is in operation in Village One, and another middle school, located at the intersection of Fine Avenue and Sharon Avenue is in the final stages of construction. The operating middle school is located between Kodiak Drive and Hillglen Avenue, immediately west of the excavated, but unimproved, West Basin.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts to Aesthetics occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.3, Urban Design and Visual Quality, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a-b) **No Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards and into MID Lateral No. 3 within the Village One Specific Plan area. Scenic vistas from the project area on clear days include the Coastal Range Mountains to the west and the Sierra Nevada Mountains to the east. Installing and operating pipelines below streets and excavating three detention basins on currently undeveloped land below ground level will not affect scenic vistas to the east or west, damage scenic resources within a state scenic highway, or degrade the existing visual character or quality of the project area.

- c) **Less Than Significant Impact:** The proposed storm water drainage system improvements would include pumps located above grade at both the Central Basin and the West Basin, and fencing around the lowest tier of the West Basin. The above-grade pumps and the fencing and the West Basin would slightly conflict with the aesthetics of the adjacent recreational uses; however, this is considered a less than significant.

- d) **No Impact:** The installation of storm water drainage pipelines and the excavation and operation of three detention basins would not introduce new sources of light or glare affecting day and night-time views in the Village One area. Lighting of the infrastructure improvements would not be included in the project.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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II. AGRICULTURE RESOURCES: In determining whether impacts to 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 Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. 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? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Impacts to Agricultural Resources occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.1, Land Use, Planning, and Zoning Context, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Potentially Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards and into MID Lateral No. 3 within the Village One Specific Plan area. Currently prime and unique farmland remains undeveloped at several proposed pipeline and detention basin locations, including: the west end of Hillglen Avenue; the planned extension of Kodiak Drive west of Roselle Avenue; the planned extension of Hillglen Avenue between Esta Avenue and Millbrook Drive; and the proposed detention basin and pipeline east of the planned Litt Road. The subject areas are within the Village One Specific Plan boundary and were proposed and approved for conversion from farmland to planned community uses in 1990. The 1990 Environmental Impact Report for the Village One Specific Plan acknowledged that conversion of prime and unique agricultural land in the Village One project area as a significant unavoidable impact. The City subsequently made the required findings under Section 21081 of CEQA and Section 15091 of the CEQA Guidelines and adopted a Statement of Overriding Considerations for this specific impact. The improvements proposed as part of the Storm Drainage Master Plan do not increase or otherwise change the impacts to prime and unique farmlands that have already been addressed in the Program EIR.

- b) **No Impact:** The installation and operation of storm water drainage system improvements would not conflict with existing zoning for agricultural use or a Williamson Act contract. Through the adoption of the Village One Specific Plan in 1990, any land previously zoned for agricultural use was rezoned to allow residential, commercial, school, park, open space, industrial and business park uses. All Williamson Act contracts in the project area have expired, the latest of which expired in 2001. Therefore, no impact to agricultural zoning or Williamson Act contracts would occur.
- c) **Less Than Significant Impact:** The installation and operation of storm water drainage pipelines in existing and proposed streets and the excavation and use of the three detention basins within the Village One Specific Plan area would not directly or indirectly result in the conversion of farmland beyond the immediately affected project areas.

Impacts Associated with the Storm Water Master Plan Update			
Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact

III. AIR QUALITY -- Where 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Air Quality occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.5, Climate and Air Quality, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a-b) **Less Than Significant Impact with Mitigation Incorporated:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three small

detention basins (i.e., the larger basins, Central and West Basins, associated with the Village One drainage system have already been graded), and installing pumps and force mains to convey storm water towards and into MID Lateral No. 3 within the Village One Specific Plan area. Construction of the proposed storm water infrastructure improvements has the potential to result in a conflict with, or obstruction to, implementation of air quality plans. This impact would be short-term, but could be reduced to a less than significant level through implementation of the mitigation measure below, as approved by the City of Modesto in the 1994 Final Supplement to an Environmental Impact Report.

AQ-1: During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM₁₀ from construction related dust and emissions.

Operation and use of the proposed storm water drainage infrastructure improvements would not generate any air emissions, and therefore, would not conflict with, or obstruct, implementation of applicable air quality plans.

- c) **Less Than Significant Impact with Mitigation Incorporated:** Construction of the proposed storm water drainage infrastructure improvements could contribute to a cumulative net increase in the presence of a criteria air pollutant, PM₁₀, through grading the 5-, 6- and 7-acre feet detention basins. However, implementation of mitigation measure AQ-1 above would reduce this project's contribution of PM₁₀ to the region. Operation of storm water drainage pipelines and use of detention basins during storm events would not generate any criteria air pollutants; thus, the project would not result in a cumulatively considerable net increase of any criteria air pollutants.
- d) **Less Than Significant Impact:** Construction of the proposed storm water drainage infrastructure improvements would generate short-term concentrations of criteria air pollutants. However, due to the short-term nature of this impact, and the minimal amount of grading that would be required for the three new detention basins, the impact remains less than significant. Operation of storm water drainage pipelines and use of detention basins would not expose nearby sensitive receptors to pollutant concentrations.
- e) **Less Than Significant Impact:** Installation of storm water drainage pipelines and excavating detention basins may generate odors from diesel construction equipment. This impact would be short-term in nature. Operation of the pipelines and use of the detention basins during storm events would not generate odors; pumps and force mains would keep water flowing and prevent pooling of water following storm events.

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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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

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Biological Resources occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.9, Vegetation and Wildlife, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** Field surveys were conducted, as part of the Final EIR for the Village One Specific Plan, for threatened, endangered, and candidate species found in the vicinity of the Village One area. These species include the Tricolored blackbird, California tiger salamander, Swainson's hawk, Yellow-billed cuckoo, Valley elderberry longhorn beetle, and Moestan blister beetle. The proposed project would involve installing and operating storm water pipelines and force mains in existing and planned streets, excavating and using three detention basins ranging in size from 5 to 7 acre-feet, and installing and using pumps at the existing West Basin and Central Basin to convey storm water towards, and into, MID Lateral No. 3 within the vicinity of potential habitat for these

species. As stated in Response to Comment 7.12 of the 1990 Final EIR, these surveys concluded the following:

- "No impact to any Swainson's hawk nesting territory will occur.
- Suitable Swainson's hawk foraging habitat does occur on the project site. However the nearest DFG recorded nesting territory is greater than 10 miles away from the project site. Therefore, current DFG mitigation guidelines do not apply and potential impacts to Swainson's hawk foraging habitat will be at a less than significant level.
- No impact to the moestan blister beetle will occur.
- No impact to the beaked clarkia will occur."

It should be noted that while the loss of Swainson's hawk foraging habitat has already been acknowledged and addressed in the previous EIR, as an impact associated with development of the Village One Planned Community, the detention basins proposed as part of the Storm Drainage Master Plan Update would be retained as open grass fields which may be suitable as raptor foraging area. Therefore, less than significant impacts would occur in the Village One area as a result of the proposed infrastructure improvements.

- b) **Less Than Significant Impact:** One sensitive plant species, the Beaked clarkia, is located within the vicinity of the project area. The proposed project would involve installing and operating storm water pipelines and force mains in existing and planned streets, excavating and using three detention basins ranging in size from 5 to 7 acre-feet, and installing and using pumps at the existing West Basin and Central Basin to convey storm water towards, and into, MID Lateral No. 3. -In July 1990, a field survey was conducted in the Village One project area to determine the presence or absence of Beaked clarkia. Based upon the results of the field survey, Beaked clarkia was not observed within the project area.
- c) **Less Than Significant Impact:** Throughout the Village One Specific Plan area, several locations in the eastern end of the Plan area could be classified as wetlands; however, no federally protected wetlands exist on the project site. Installing and operating storm water drainage pipelines and force mains and excavating and using the three proposed detention basins would not affect the eastern end of the Plan area, and would therefore result in a less than significant impact on wetlands.
- d) **Less Than Significant Impact:** Construction of the proposed storm water drainage system would involve installing and operating pipelines and force mains in existing and planned streets, and excavating and using three proposed detention basins on currently undeveloped, natural land. While development of the proposed project would result in lost habitat for wildlife species, this habitat has not been identified or designated as a migratory wildlife corridor. Impacts from the proposed project would be limited to the pipeline and force main locations and the 5-, 6- and 7-acre-feet detention basins. Lands to the north and east of the Village One Specific Plan area would remain in their undeveloped and natural conditions; therefore, impacts to migratory corridors would remain less than significant.
- e) **Less Than Significant Impact:** Installation and operation of the proposed pipelines, pumps, and force mains, and excavation and use of the three proposed detention basins would not conflict with any local policies or ordinances protecting biological resources. In 1990, the City of Modesto adopted the Village One Specific Plan, thus authorizing the build-out of the Plan area. No policies or ordinances protecting biological resources currently apply to the Village One area.
- f) **Less Than Significant Impact:** Installation and operation of the proposed pipelines, pumps, and force mains, and excavation and use of the three proposed detention basins would not conflict with any

Habitat Conservation Plans, Natural Community Plans, or other approved local, regional or state habitat conservation plans. In 1990, the City of Modesto adopted the Village One Specific Plan, thus authorizing the build-out of the Plan area. No Habitat Conservation Plans, Natural Community Plans, or other approved local, regional or state habitat conservation plans currently apply to the Village One area.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Cultural Resources occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

a-d) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Based on the Opportunities/Constraints Report prepared for the Village One area in December 1998, the likelihood that pipeline installation and detention basin excavation would change or disturb a significant historical, archaeological, unique paleontological or geological resource, or human remains is low.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	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:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts to Geology and Soils occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.7, Geology and Soils, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and

force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction and operation of these infrastructure improvements would not expose people or structures to potential substantial adverse effects from a rupture of a known earthquake fault, strong seismic groundshaking, seismic-related ground failure, or landslides.

- b) **Less Than Significant Impact:** Installation of the proposed storm water drainage improvements would result in minimal loss of topsoil. During storm events, storm water would flow to detention basins and water would then be pumped to the Central Basin for discharge into MID Lateral No. 3. The design and ground cover of the basins would prevent soil erosion from occurring.
- c) **Less Than Significant Impact:** The proposed storm water drainage system improvements would not be located on a geological, unit or soil that is unstable. Therefore, impacts associated with on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse are unlikely to occur.
- d) **Less Than Significant Impact:** The proposed storm water drainage system improvements would be located in an area classified by the Soil Conservation Service as soil having a slight to moderate shrink-swell potential, which could affect foundations of structures.¹ However, the proposed project would not include foundations or buildings, and therefore, would not be susceptible to the expansive soils. Therefore, less than significant impacts would occur.
- e) **No Impact:** The proposed project would not include septic tanks or alternative waste water disposal systems; therefore, the proposed storm water drainage system improvements would not be affected by soils incapable of supporting alternative waste water disposal systems.

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

¹ Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan Amendment #4, April 1994, page III-106.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Hazards and Hazardous Materials occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.8, Hydrology, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **No Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction and operation of the proposed project would not result in significant hazards to the public or environment since use of hazardous materials would not be part of the project.
- b) **Less Than Significant Impact:** Installation and operation of the proposed storm drainage improvements would not create a hazard through upset or accident conditions involving the release of hazardous materials. No hazardous materials would be included as part of the project.
- c) **Less Than Significant Impact:** Installation and operation of the proposed project is not anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials within one-quarter mile of a school. The West Basin is located less than one-quarter mile from an existing middle school, but nothing in the design of the West Basin would involve use of hazardous materials, substances, or waste. The proposed detention basin located near the intersection of Sharon Avenue and Litt Road

would also be located within one-quarter mile from a school; however the basin would not rely upon or generate hazardous materials, substances, or waste.

- d) **Less Than Significant Impact:** The proposed storm water drainage system improvements in the Village One Specific Plan area would be located within close proximity to listed hazardous materials sites, pursuant to Government Code Section 65962.5. Per the EDR Radius Map Search (November 5, 2002), the following indicates the number of sites in the Village One Specific Plan area listed on each database:

**TABLE 1
VILLAGE ONE SITES LISTED IN HAZARDOUS WASTE LISTS AND DATABASES**

<u>Hazardous Waste List</u>	<u>Number of Sites Listed Within Approximately 1- Mile of Village One Property</u>
RCRIS (Resource Conservation and Recovery Act Inventory)	2
ERNS (Emergency Response Notification System)	6
Cal Sites	2
CHMIRS (California Hazardous Material Incident Report System)	2
Cortese	1
LUST (Leaking Underground Storage Tanks)	1
UST (Underground Storage Tanks)	1
CA FID (California Facility Inventory Database)	8
HIST UST (Historical Underground Storage Tanks)	7
FINDS (Facility Index System)	3
SSTS	2
AST (Above-ground Storage Tanks)	2
Dry Cleaners	2
CA SLIC	1
HAZNET	11

Based upon the results of the EDR, five sites are located within the immediate vicinity of proposed infrastructure improvements. All five of these sites are listed on the California Facilities Inventory Database (CA FID) and Historical Underground Storage Tank (HIST UST) database lists. The CA FID lists active and inactive underground storage tank locations, and the HIST UST lists registered underground storage tank locations. While sites within the project area are listed on hazardous material databases, the likelihood of these hazardous sites creating a significant hazard to the public or environment through the proposed storm water drainage system improvements is minimal. Installation of closed system pipelines and excavation of detention basins for holding storm water run-off and

allowing groundwater recharge would not expose people or the environment to new hazards. However, in the unexpected event that contaminated materials are encountered, the materials would be evaluated and, if necessary, remediated in accordance with applicable local, state, and federal regulatory requirements.

- e) **No Impact:** The proposed project would not be located within an airport land use plan or within two miles of a public or public use airport; therefore, no impacts would occur.
- f) **No Impact:** The proposed project would not be located within the vicinity of a private airstrip; therefore, no impacts would occur.
- g) **Less Than Significant Impact:** The proposed storm water drainage infrastructure improvements would not interfere with an adopted emergency response plan or emergency evacuation plan. Pipelines and force mains would be placed within existing and planned streets. During construction, roadways may be temporarily closed, however, additional roadways and evacuation/response routes exist in the Village One Specific Plan area. Excavation and use of detention basins would not interfere with excavation or response routes since the three basins would be limited to 5, 6 and 7 acre-feet in size.
- h) **Less Than Significant Impact:** The proposed project would be located in an area of the City of Modesto planned for build-out of an urban neighborhood. Currently, approximately 50% of the construction has occurred, however, some areas of the project area remain undeveloped with dry brush and vegetation covering the site. The potential for wildland fires is low, and this potential will continue to decrease as build-out of the Village One Specific Plan area occurs.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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VIII. HYDROLOGY AND WATER QUALITY

-- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be 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 which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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 which would result in substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Substantially alter the existing drainage pattern | | | | |

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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 which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts to Hydrology and Water Quality occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.8, Hydrology, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards and into MID Lateral No. 3 within the Village One Specific Plan area. Design of the project takes all water quality standards into consideration, and construction and operation of the project would not violate any water quality standards or waste discharge requirements.
- b) **No Impact:** The proposed project would positively affect groundwater recharge through the West Basin, Central Basin, and the three additional proposed detention basins. Pumps would convey most of the storm water in the West Basin and Central Basin towards, and into, MID Lateral No. 3; however, small amounts of storm water would remain in these two basins for groundwater recharge. No pumps would be included in the three new detention basins. Therefore, the project would neither deplete groundwater supplies nor interfere with groundwater recharge.

- c) **Less Than Significant Impact:** The proposed project would alter the storm water drainage patterns by installing storm water drainage pipelines, detention basins, pumps and force mains. These infrastructure improvements, however, would not result in substantial erosion or siltation on- or off-site.
- d) **Less Than Significant Impact:** The proposed project would alter the storm water drainage patterns by installing storm water drainage pipelines, detention basins, pumps and force mains. These infrastructure improvements, however, would not result in flooding on- or off-site since the improvements are intended to control storm water run-off, gradually direct run-off into MID Lateral No. 3, and ultimately prevent on- and off-site flooding.
- e) **Less Than Significant Impact:** The infrastructure improvements of the proposed project are intended to increase storm water runoff and drainage capacity in the Village One area. During 10-year storm events, not all water may be accommodated in the proposed system. Short-term localized ponding of water would occur in eight locations, as pictured in Figure 3.
- f) **Less Than Significant Impact:** The proposed infrastructure improvements are intended to accommodate storm water drainage and direct flows to the MID Lateral No. 3. The intent of the project is to control storm water run-off through a system separate from the existing and future Village One water and wastewater systems. Therefore, no impacts to the water quality would occur as a result of these infrastructure improvements.
- g-h) **No Impact:** The Village One Specific Plan area is not located within a 100-year floodplain, and the proposed infrastructure improvements would not be placed within a 100-year floodplain. Therefore, no impacts would occur.
- i) **Less Than Significant Impact:** The proposed project is intended to improve storm water drainage infrastructure to prevent flooding through directing storm water away from homes; thus, the project is unlikely to expose people or structures to risks associated with flooding.
- j) **No Impact:** The proposed infrastructure improvements would be located in a flat and inland area not susceptible to seiche, tsunami, or mudflow; therefore, no impacts related to seiche, tsunami, or mudflow would occur.

Impacts Associated with the Storm Water Master Plan Update			
Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Impacts to Land Use and Planning occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.1, Land Use, Planning, and Zoning Context, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **No Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Pipelines would be located beneath streets, and the three 5, 6 and 7 acre-feet detention basins would be at three individual locations throughout the 1,775-acre area. Construction and operation of this infrastructure would not divide an established community.

- b) **No Impact:** Installing storm water drainage pipelines and excavating three detention basins would not conflict with the City of Modesto's General Plan or the adopted Village One Specific Plan. Construction and operation of this infrastructure would allow development consistent with these plans to continue, as approved by the City in 1990.

- c) **No Impact:** No habitat conservation plans or natural community conservation plans apply to the project area. The City of Modesto General Plan and the Village One Specific Plan assume full build-out of the project area; therefore, no impacts would occur.

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts to Mineral Resources occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.1, Land Use, Planning and Zoning, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

a-b) **No Impact:** No known mineral resources exist or are delineated in the project area. Installation and operation of storm water drainage infrastructure improvements would not affect any known mineral resources in the Village One Specific Plan area.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE: Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts to Noise occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.6, Noise, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact with Mitigation Incorporated:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction of the proposed storm water drainage system improvements could generate noise levels in excess of those allowed in the City's Noise ordinance at adjacent residences, schools, and parks. Incorporation of the following mitigation measure, as approved by the City of Modesto in the 1994 Final Supplement to an Environmental Impact Report for the proposed Village One Specific Plan Amendment #4, would reduce this impact to a less than significant level.

N-1: 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 Division for conformance with the City's Noise ordinance.

- b) **Less Than Significant Impact:** Installing and operating the proposed infrastructure improvements would not result in excessive groundborne vibration or noise levels. During installation of pipelines and excavation of the detention basins, construction equipment may generate slight groundborne vibration, however this would be on a short-term basis. Operation of the pipelines and use of the basins would not generate any groundborne vibration.
- c) **Less Than Significant Impact:** Construction of the proposed project may result in a short-term increase in ambient noise levels. Operation of the pipelines and use of the detention basins would occur only during storm events and would not result in a substantial permanent increase in ambient noise levels in the surrounding project area.
- d) **Less Than Significant Impact:** Construction of the proposed project could periodically result in an increase in noise within the vicinity of pipeline and force main installations and detention basin excavations. However, the noise levels in the Village One area would not increase over a long-term basis, as construction equipment use would cause temporary peaks in the noise levels that would end when equipment is turned off.
- e) **No Impact:** The proposed project would not be located within an airport land use plan or within two miles of a public or public use airport; therefore, no noise impacts would occur.
- f) **No Impact:** The proposed project would not be located within the vicinity of a private airstrip; therefore, no noise impacts would occur.

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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XII. POPULATION AND HOUSING -- Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Population and Housing occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.2, Population, Employment, and Housing, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. The intent of this Master Plan Update to the 1996 storm water drainage master plan is to increase the drainage system capacity for the existing Village One area and the proposed future development. Additional population growth would likely occur following installation of the pipelines and excavation of the detention basin. This growth, however, is planned as stated in the 1990 Village One Specific Plan and would not occur solely because the storm water drainage system capacity would be increased.

- b-c) **Less Than Significant Impact:** Installation of storm water drainage pipelines and excavation of detention basins would displace less than five existing housing units and the associated residents. Within Village One, at full build-out, between 4,000 and 5,000 new housing units would be constructed; therefore, displaced residents could be absorbed by the new housing units included in the Village One development.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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XIII. PUBLIC SERVICES

- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts to Public Services occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.10, Public Services and Utilities, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **No Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Public services, including emergency services, fire protection, police protection, schools and parks, would not be affected by the construction and operation of the proposed infrastructure improvements.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIV. RECREATION --				
a) Would the project 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Recreation occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.10, Public Services and Utilities, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **No Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction and operation of these infrastructure improvements would not result in an increase in the use of Village One recreational facilities.
- b) **Less Than Significant Impact:** Improvements to the excavated, but unimproved, West Basin would include recreational components. During storm events, portions of, or all of the West Basin would be inundated with water. Pumps would direct water out of the Basin to the Central Basin and MID Lateral No. 3, and the recreational facilities would be available again for use. This impact would be intermittent and short-term in nature, occurring only during and immediately following storm events.

Impacts Associated with the Storm Water Master Plan Update
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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XV. TRANSPORTATION/TRAFFIC -- Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts Associated with the Storm Water Master Plan Update			
Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Impacts to Transportation and Traffic occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.4, Traffic and Circulation, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction of these storm water drainage infrastructure improvements would cause additional construction truck traffic on roadways; however, this impact would be short-term. Operation and use of these storm water drainage infrastructure improvements would not result in an increase in traffic on roadways in the project area.
- b) **Less Than Significant Impact:** Construction and operation of the proposed infrastructure improvements would result in a minor, short-term, increase in construction truck traffic; however, the increase in traffic would not exceed an established level of service standard.
- c) **No Impact:** Construction and operation of the proposed infrastructure improvements would not cause a change in air traffic patterns since all improvements would occur at or below ground level and are not proposed at or near public or public use airport or private airstrip locations.
- d) **Less Than Significant Impact:** Construction of the proposed storm water drainage infrastructure improvements would result in additional construction truck traffic along roadways during the short construction period. Any incompatibilities would be short-term in nature and end once construction of the improvements is complete. Operation of the proposed storm water infrastructure improvements would not increase transportation and traffic hazards.
- e-f) **Less Than Significant Impact:** Installation of the proposed storm water drainage pipelines in existing streets could result in short-term closures to existing roads. Road closures could slow emergency access to the existing community and prevent parking along roadsides; however, additional emergency access routes and parking options do exist in the Village One area.
- g) **No Impact:** Construction and operation of the proposed storm water drainage infrastructure improvements would not affect alternative transportation means, adopted alternative transportation policies, plans; or programs.

Impacts Associated with the Storm Water Master Plan Update

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Impacts to Utilities and Service Systems occurring as the result of implementing the Village One Project, including associated infrastructure, are addressed in Section 4.10, Public Services and Utilities, of the 1990 Program EIR. The following provides additional information specific to the currently proposed Storm Water Master Plan Update, based on questions presented above.

- a) **Less Than Significant Impact:** The proposed project involves installing storm water drainage pipelines in existing and proposed streets, excavating three detention basins, and installing pumps and force mains to convey storm water towards, and into, MID Lateral No. 3 within the Village One Specific Plan area. Construction and operation of storm water drainage pipelines, force mains, and three additional detention basins would occur as a separate system from the waste water treatment system. As such, improvement of the existing storm water drainage infrastructure would not exceed treatment requirements of the Regional Water Quality Control Board.

- b) **No Impact:** Construction and operation of the proposed storm water drainage infrastructure improvements would not result in the need to construction new water or wastewater treatment facilities. The storm water drainage system is currently, and would remain, separate form the existing water and wastewater systems.
- c) **No Impact:** The project involves improving existing and planned storm drainage facilities to accommodate a higher volume of storm water run-off from large storm events. The need for additional storm water drainage facilities beyond those proposed in the Master Plan Update is not anticipated following the construction and operation of the proposed facilities in Village One.
- d) **No Impact:** The project would not require any water supplies to serve the storm water drainage system improvements; therefore, no impacts to the existing water supply would occur.
- e) **No Impact:** Project construction and operation would not generate any wastewater. The storm water drainage system is currently, and will remain, separate from the City of Modesto's wastewater system.
- f) **Less Than Significant Impact:** Excavation of the proposed 5, 6 and 7 acre-feet detention basins would generate dirt that would need to be either transported to a landfill or reused on the project site. Fill generated from the Central Basin and West Basin was reused through the Village One area; therefore, to continue with build-out of the area, fill could likely be reused, thus minimizing impacts to landfills.
- g) **Less Than Significant Impact:** Construction and operation of the proposed infrastructure improvements would generate minimal amounts of solid waste, as discussed in f) above. Therefore, no federal, state or local statutes or regulations related to solid waste would be violated.

Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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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?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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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

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Impacts Associated with the Storm Water Master Plan Update

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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- a) **Less Than Significant Impact:** Construction and operation of the proposed storm water drainage system improvements may result in isolated impacts to habitat for wildlife species. However, since these impacts are localized and surrounding areas maintain conditions for this habitat, less than significant impacts would occur.
- b) **Less Than Significant Impacts:** Construction and operation of the proposed infrastructure improvements would not result in a cumulatively considerable impact. Many of the projects occurring in the vicinity of the proposed infrastructure improvements could be timed to allow for coordinated pipeline installation and roadway improvements, and/or detention basin excavation and grading for residential construction. Coinciding timing for these projects would further reduce any potential cumulative impacts to a level of insignificance.
- c) **Less Than Significant Impacts:** Construction and operation of the proposed storm water drainage system improvements would not result in any known environmental effects that would cause direct or indirect substantial adverse effects on human beings. Any resulting environmental impacts related to human health and/or safety are either less than significant or can be reduced to a less than significant level through mitigation.

Conclusions

Based on the above, the Program EIR, as amended with the information and analysis presented herein as an Addendum, adequately addresses the potential impacts of the Storm Drainage Master Plan Update.

Section 15162 of the CEQA Guidelines indicates that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to circumstances under which the project is undertaken which will require major revisions of the previous EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete,

shows any of the following:

- a. The project will have one or more significant effects not discussed in the previous EIR;
- b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- c. Mitigation measures or alternatives previously found not to be feasible would in fact be 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 previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Determination

The information and analysis presented herein provides substantial evidence for the City of Modesto to make the following findings:

1. The proposed project would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects requiring revisions to the previous EIR (see checklist answers and associated explanations above);
2. The proposed project would not have circumstances that would result in new significant environmental effects and require revisions to the previous EIR (the only significant impact identified – loss of agricultural land – was previously addressed and acknowledged in the Program EIR); and
3. The proposed project would not generate new information not known in the previous EIR that would result in:
 - a. One or more new significant effects (see items 1 and 2 directly above);
 - b. Increase the severity of a previous significant effect (see item 2 directly above and item II.(a) in Checklist); or
 - c. Find new feasible mitigation measures or alternatives that the project proponents decline to adopt (mitigation measures previously adopted with the Program EIR and Supplement will be implemented for the currently proposed Storm Drain Master Plan Update - no new mitigation measures or alternatives are proposed or needed); or
 - d. Find new mitigation measures or alternatives different than those in the previous EIR that would reduce significant effects that the project proponents decline to adopt (see above).

EXHIBIT “C”

FINDINGS OF FACT IN SUPPORT OF FINDINGS FOR SIGNIFICANT ENVIRONMENTAL EFFECTS OF THE PROJECT (Storm Drainage Master Plan Update for Village One Community Facilities District)

In accordance with Section 21081 of the California Environmental Quality Act (CEQA) and Section 15091 of the CEQA Guidelines, the City of Modesto has provided documentation that addresses potential significant impacts that would result from the implementation of the Village One Facilities Master Plan Update – May 2003 and the Storm Drainage Master Plan Update.

The following potential significant impacts have been separated into two categories: (1) those potential impacts that could be mitigated to a level that is considered less than significant with the implementation of existing City policies and standards and the recommended mitigation measures, and (2) those potential impacts that would remain significant (e.g. cannot be reduced to a level less than significant). In addition to identifying potential significant impacts, each of the two categories identify one of the following three findings for each potential significant impact and provides facts in support of each finding.

- ◆ Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- ◆ Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- ◆ Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for high trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

MITIGATED ADVERSE IMPACTS

The adverse environmental impacts that would be mitigated are listed below. The Modesto City Council finds that these adverse impacts would be mitigated to a level that is considered less than significant after implementation of the mitigation measures previously identified and adopted in conjunction with the Village One EIR, as amended by the Supplemental EIR.

AIR QUALITY

Although significant air quality impacts are not anticipated as a result of the proposed Village One Facilities Master Plan Storm Drainage Master Plan Update - May 2003 and the Storm Drainage Master Plan Update, mitigation measures as adopted and required through the Village One EIR, as amended by the Supplemental EIR would be followed, and impacts would remain at a less than significant level.

Finding

Changes, alterations, or requirements have been incorporated into the project which would avoid or substantially lessen the adverse environmental effects as identified in the Village One EIR, as amended by the 1994 Supplemental EIR and the Addendum prepared for the currently proposed project.

Facts in Support of Findings

Implementation of the following mitigation measure will serve to lessen or avoid project impacts, and the potential effects will be reduced to a level that is considered less than significant.

AQ-1. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM₁₀ from construction related dust and emissions.

NOISE

Although significant impacts are not anticipated as a result of the proposed Village One Facilities Master Plan Update – May 2003 and Storm Drainage Master Plan Update, mitigation measures as adopted and required through the Village One EIR, as amended by the Supplemental EIR documents would be followed, and impacts would remain at a less than significant level.

Finding

Changes, alterations, or requirements have been incorporated into the project which would avoid or substantially lessen the adverse environmental effects as identified in the Village One EIR, as amended by the Supplemental EIR and the Addendum prepared for the currently proposed project.

Facts in Support of Findings

Implementation of the following mitigation measure will serve to lessen or avoid project impacts, and the potential effects will be reduced to a level that is considered less than significant.

- N-1. 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 Division for conformance with the City's Noise ordinance.

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

The one potential significant unavoidable adverse impact associated with the implementation of the Storm Drainage Master Plan Update is listed below. The Modesto City Council will be required to adopt a Statement of Overriding Consideration per Section 15093 of the CEQA Guidelines.

AGRICULTURAL RESOURCES

Significant Impact

Grading of retention basins in the implementation of the Storm Drainage Master Plan Update for Village One Community Facilities District would result in the loss of existing farmland. The loss of prime and unique farmland was previously anticipated and accounted for in the 1990 Program EIR and the 1994 Supplemental EIR for the Village One Specific Plan. The eminent loss of farmland may occur more immediately and directly as a result of the Storm Drainage Master Plan Update for Village One Community Facilities District's project than would otherwise ultimately occur with build-out of the Village One Specific Plan.

Finding

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for high trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR for the Village One Specific Plan project, as amended by the 1994 Supplemental EIR and the Addendum prepared for the currently proposed project.

Facts in Support of Findings

There are no feasible mitigation measures available to mitigate the loss of prime and unique farmland on the project site. The loss of prime and unique farmland on the project site was acknowledged by the City of Modesto during approvals of the Village One Specific Plan and the 1990 Program EIR and 1994 Supplemental EIR for the Village One Specific Plan, which established urban uses within the Village One Specific Plan area.

EXHIBIT “D”

STATEMENT OF OVERRIDING CONSIDERATIONS (Storm Drainage Master Plan Update for Village One Community Facilities District)

As stated in the findings, the City of Modesto has determined that a certain impact of the project will potentially be significant; that being the loss of farmlands. As directed by Section 15093 of the CEQA Guidelines, the City of Modesto has considered this significant unavoidable adverse impact in balance with the benefits of the project, and finds that the benefits of the project, summarized below, render the significant unavoidable environmental impact acceptable.

1. Implementation of the Storm Drainage Master Plan Update will provide a greater level of flood protection to the residents of the Village One Specific Plan area.
2. Implementation of the Storm Drainage Master Plan Update will bring the storm drainage capacity up to date with current industry standards by increasing the capacity of the system to accommodate 10-year rainfall events. This standard is used for metropolitan areas in California.
3. Updating the Storm Drainage Master Plan at this time will provide for cost-effective upgrades to the storm drainage system in those areas of Village One where the storm drainage system and other supporting infrastructure has not yet been installed.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-224**

**A RESOLUTION ADOPTING THE VILLAGE ONE FACILITIES
MASTER PLAN UPDATE – MAY 2003 WHICH REPLACES THE
VILLAGE ONE FACILITIES MASTER PLAN ADOPTED IN JUNE 1994,
AS AMENDED IN JUNE 1996**

WHEREAS, the Village One Facilities Master Plan is required by the Village One Specific Plan, and

WHEREAS, the City Council adopted the Village One Facilities Master Plan in June of 1994, and

WHEREAS, the City Council updated the Village One Facilities Master Plan in June of 1996, and

WHEREAS, City staff has recommended to the City Council, by a staff report dated April 29, 2003, a copy of which is on file in the office of the City Clerk, that the Village One Facilities Master Plan Update (May 2003) (“VI FMP May 2003”) be adopted, and

WHEREAS, the VI FMP May 2003 is not a finance plan, a separate finance plan will be a companion document to the Village One Specific Plan recommending a funding strategy, and

WHEREAS, a duly noticed public hearing was scheduled and held before the City Council on May 6, 2003 at 5:30 p.m. in the Chambers, Basement Level, Tenth Street Place, 1010 – 10th Street, Modesto, California, to consider adoption of the proposed Village One Facilities Master plan (May 2003) that establishes base requirements and guidelines for roads, water, sanitary sewer, storm drainage

facilities and other public utilities and which provides the basis for design of construction plans,

WHEREAS, staff has recommended that periodic review of the VI FMP occur to assure that the base requirements, guidelines and cost estimates remain current.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council hereby adopts the Village One Facilities Master Plan Update (May 2003) (“VI FMP May 2003”) that establishes base requirements and guidelines for roads, water, sanitary sewer, storm drainage facilities and other public utilities and which provides the basis for design of construction plans. A copy of the VI FMP May 2003 is on file in the office of the City Clerk. The VI FMP May 2003 replaces the Village One Facilities Master Plan adopted in June of 1996.

BE IT FURTHER RESOLVED that periodic review of the VI FMP shall occur to assure that the base requirements, guidelines and cost estimates remain current.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, 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: Conrad, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-226**

**A RESOLUTION APPOINTING ERNIE FOOTE TO THE PUBLIC EVENTS
ADVISORY COMMITTEE**

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Councilmember Frohman's appointment has since resigned, and

WHEREAS, Councilmember Frohman has nominated ERNIE FOOTE to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints ERNIE FOOTE to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:



Michael D. Milich, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-227**

**A RESOLUTION APPROVING THE TUOLUMNE RIVER AND TRIBUTARIES
FEASIBILITY STUDY COST-SHARING AGREEMENT AMONG THE
MODESTO IRRIGATION DISTRICT (MID), TURLOCK IRRIGATION
DISTRICT (TID), STANISLAUS COUNTY (COUNTY), AND THE CITY OF
MODESTO (CITY), AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT**

WHEREAS, the floods of January 1997 resulted in the United States Army Corps of Engineers (Corps) conducting a Reconnaissance Study for flood control improvements along the Tuolumne River, and

WHEREAS, the Reconnaissance Study contained a recommendation that a Feasibility Study (Study) for the project was needed, and

WHEREAS, the estimated cost of the Study is \$1,800,000, and

WHEREAS, the Corps and the State of California Reclamation Board entered into a cost-sharing agreement to pay for a major portion (\$1,350,000 or three-quarters) of the Study, and

WHEREAS, the four "local" agencies of MID, TID, the County, and City have agreed in concept to participate in the Study by entering into a cost-sharing agreement (Agreement) with each other and equally funding the remaining portion (\$450,000 or one-quarter) of the Study's cost, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on April 7, 2003, and a favorable recommendation was made to forward the Agreement to the Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Tuolumne River and Tributaries Feasibility Study Cost-Sharing Agreement among the four "local" agencies for the purpose of funding a portion of the Study's cost and that the City of Modesto's share will be an amount not to exceed \$112,500.

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 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-228**

**A RESOLUTION REJECTING THE BID FOR THE PROJECT TITLED
“CENTRE PLAZA ELEVATOR EXTENSION” AND AUTHORIZING STAFF TO
RE-ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the bids received for Centre Plaza Elevator Extension were opened at 11:00 a.m. on March 25, 2003, and

WHEREAS, during the bid evaluation process, staff determined that the bids unreasonably exceed 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 bids received for the Centre Plaza Elevator Extension, opened in the office of the City Clerk on March 25, 2003, 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 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-229**

**A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS
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, and

WHEREAS, said assessment district was formed in accordance with the Landscaping 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 2003-04.
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 1st day of July, 2003, 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 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 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-230**

**A RESOLUTION OF INTENTION TO LEVY AND COLLECT
ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT
DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISION NOS. 7-10,
CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS
SUBDIVISION 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 Subdivision Units No. 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping 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 2003-04.
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 1st day of July, 2003, 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 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-231**

WAS NOT USED

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-232**

**A RESOLUTION AWARDING THE BID FOR PRINTING OF THE MONTHLY
UTILITY BILL INSERT TO METRO MAILING SERVICES INC.,
SACRAMENTO, CA FOR A PERIOD OF THREE (3) YEARS WITH TWO (2)
ONE-YEAR EXTENSION OPTIONS**

WHEREAS, the City Manager's Department Communications and Marketing Division requests the printing of the monthly utility bill insert, and

WHEREAS, the utility bill insert has been included with the monthly billing statement since 1987, and

WHEREAS, the utility bill insert provides the City an economical means of reaching all households and businesses in the City with important City information, and

WHEREAS, the monthly utility bill insert will be printed to a standard size of 17" x 11", folded to 8-1/2" x 11", then folded in thirds for mailing, where as in the past the utility bill insert was cut to a custom size of 16" x 9-3/4". By printing to a standard size of 17" x 11" the City will save \$804.00 annually, and

WHEREAS, by Resolution No. 2003-71A, Council authorized the solicitation of formal bids for the printing of the monthly utility bill insert, and

WHEREAS, the Purchasing Division solicited formal bids for the printing of the monthly utility bill insert from eighteen (18) vendors and seven (7) chose to respond, and

WHEREAS, Metro Mailing Service Inc. met all of the bid specifications and was deemed to be the lowest responsive and responsible bidder with a bid of \$24,120.00, and

WHEREAS, staff recommends that the City award the bid for the printing of the monthly utility bill insert to Metro Mailing Service Inc. for a three (3) year agreement, with two (2) one-year extension options,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby awards the bid for the printing of the monthly utility bill insert to Metro Mailing Service Inc., Sacramento, CA, for an approximate annual cost of \$24,120.00.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a price agreement for a three (3) year period to Metro Mailing Service Inc., with the option of two (2) one-year contract extensions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-233**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE REQUEST FOR BID FOR SIX (6) UTILITY VEHICLES FOR A TOTAL
ANTICIPATED COST OF \$540,000.00**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of six (6) utility vehicles, and

WHEREAS, the six utility vehicles consist of three (3) crane truck, 33,000 GVW w/crane & flatbed, one (1) current model year truck with sewer rodder body; one (1) service truck with utility body and crane, and one (1) truck with 6/7 yard dump body, and

WHEREAS, two of the new crane trucks will be utilized by Water Division and the third one by Waste Water Collections Division, and

WHEREAS, one of the units will replace an existing crane truck that has become unreliable and is costly to keep operational, and

WHEREAS, this unit has met its life expectance, and

WHEREAS, this unit is fully funded for replacement from the funds set aside out of the Fleet Enterprise Fund, and

WHEREAS, the second crane truck is an additional crane truck to the Water Division vehicle equipment pool, and

WHEREAS, the third truck is an upgrade replacement to a service truck which has met its life expectancy and will provide partial funding for the crane truck from replacement funds set aside out in the Fleet Enterprise fund, and

WHEREAS, the remaining funds for the increased cost are budgeted in the Wastewater Collections funds, and

AMENDED FOR CLERICAL ERROR

WHEREAS, reliable, properly equipped crane trucks are needed to handle the heavy work on the water construction crews, and

WHEREAS, the existing crane truck is a 1989 truck obtained when the City bought the Del Este's water operations, and

WHEREAS, this truck is old and inadequate to be lifting heavy loads, and it's reach is too short for many projects, and

WHEREAS, the second truck is needed by the Water Division due to the large increase in construction projects, and

WHEREAS, currently the division rents a crane truck on a full time basis at a significantly higher cost than ownership will offer, and

WHEREAS, the third truck, a Storm Water crane truck, will be used for storm water construction and maintenance projects, and

WHEREAS, the Storm water construction crews does not have a crane to lift heavy concrete manholes and catch basins, and

WHEREAS, the crane must be capable of lifting heavy pipe, valves, maters, and backflows and construction checks in and out of the the trenches and in ground vaults, and

WHEREAS, the estimated total cost of this purchase is \$540,000.00, and

WHEREAS, the current model year truck with sewer rodder body is a replacement for an existing truck for the Water Department, and

WHEREAS, the service truck with utility body and crane is a replacement for exiting equipment, which has met it life expedience, and

AMENDED FOR CLERICAL ERROR

WHEREAS, the current model year truck with sewer rodder body is a replacement for an existing piece of equipment, and will be used by the Water Collections for the maintenance and repair of sewer lines, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, per MMC 8-3.204 (d) the Purchasing Supervisor 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,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto that formal solicitation of bids for six (6) utility vehicles is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for six (6) utility vehicles to be opened in 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.

AMENDED FOR CLERICAL ERROR

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

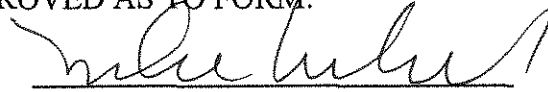
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-234**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE REQUEST FOR BIDS FOR T-SHIRTS, JACKETS AND COVERALLS WHICH ARE REQUIRED TO FULLFILL MOU OBLIGATIONS, AND FOR A THREE YEAR CONTRACT PERIOD, WITH THE OPTION OF TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSIONS. THE ANTICIPATED COST FOR T-SHIRTS AND OVERALLS IS \$20,000.00 ANNUALLY.

WHEREAS, the Operations and Maintenance Department has requested the purchase of t-shirts and coveralls, and

WHEREAS, the estimated annual cost for t-shirts and coveralls is \$20,000.00, and

WHEREAS, the purchase of t-shirts and coveralls will allow the City of Modesto to fulfill contractual obligations between the City and the Modesto City Employees Association (MCEA) regarding dress and grooming for the miscellaneous group, and

WHEREAS, the City does not provide jackets, but did agree in negotiations to allow for bids to be received with the t-shirts/coveralls contract in the event that City employees wanted to purchase jackets on their own, and

WHEREAS, this request for bid for t-shirts, jackets, and coveralls addresses the uniform requirements of employees with both the Operations and Maintenance Department and the Engineering and Transportation Department, and

WHEREAS, uniforms provide a consistent image and make it easy for residents to identify City employees that they meet during the performance of their work, and

WHEREAS, by soliciting competitive bids for t-shirts, jackets, and coveralls, the Finance Department- Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for t-shirts, jackets, and coveralls is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for t-shirts, jackets, and coveralls to be opened in 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 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-235**

A RESOLUTION ACCEPTING A FEMA GRANT IN THE AMOUNT OF \$17,739.00 TO FUND THE “CERT” PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE GOVERNOR’S OFFICE ON SERVICE AND VOLUNTEERISM FOR \$17,739.00 IN GRANT FUNDS.

WHEREAS, the Federal Emergency Management Agency Region IX (FEMA) has notified the governors’ offices of California, Hawaii, and Nevada that their states will receive grants from a total of \$2.7 million available to support local homeland security efforts, and

WHEREAS, the grant application for Modesto for the Citizen Corps and CERT was approved by the Governor’s Office on Service and Volunteerism in the amount of \$17,739.00,

WHEREAS, the funds are available to support Citizen Corps activities, including the formation of Citizen Corps Council and expansion of FEMA’s Community Emergency Response Teams (CERT), and

WHEREAS, the Citizen Corps’ mission is to make communities safer, stronger and better prepared to respond to threats of terrorism, public health issues, and disasters of all kinds by engaging individuals in emergency preparedness and response education, training, volunteer service, and

WHEREAS, the Community Emergency Response Teams (CERT) program trains individual citizens in emergency response skills, and

WHEREAS, the purpose is to have all citizens better prepared to respond to disasters of all kinds and a nation prepared, and

WHEREAS, the City desires to provide CERT training which will consist of both classroom and hands-on instruction to citizens in the community, and

WHEREAS, the Safety and Communities Committee met on January 6, 2003, to review this recommendation, and

WHEREAS, the Council on January 14, 2003, adopted Resolution No. 2003-29 approving the formation of Citizen Corps and Community Emergency Response Teams (CERT), and

WHEREAS, the Council at the same meeting on January 14, 2003, adopted Resolution No. 2003-30 approving the application for Federal Emergency Management Agency, Office of National Preparedness FY 2002 Supplemental Appropriation Grant for Citizen Corps and CERT Application for Assistance, and

WHEREAS, the City is required to enter into a contract with the Governor's Office on Service and Volunteerism for the \$17,739.00.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a grant for \$17,739.00 from the Federal Emergency Management Agency, Office of National Preparedness FY 2002 Supplemental Appropriations Grant for Citizen Corps and CERT Application for Assistance.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager or his designee, as the agent of the City, is hereby authorized to execute and submit all documents which may be necessary for the completion of the grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

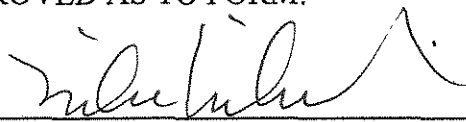
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 236**

A RESOLUTION AMENDING THE FY 2002-03 ANNUAL BUDGET TO ESTIMATE REVENUE OF \$17,739.00 AND APPROPRIATE FUNDS FOR THE "CERT" PROGRAM.

WHEREAS, the Governor's Office on Service and volunteerism has notified the City of Modesto of acceptance of its grant application for Citizen Corps and Community Emergency Response Teams (CERT) in the amount of \$17,739.00, and

WHEREAS, said funding will provide necessary training to the public in emergency response skills and disasters preparedness,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2002-03 Annual Budget is hereby amended to recognize additional revenue and appropriations of \$17,739.00 as follows:

Funds Provided From	Account Number	Account Name
Total Est. Cost: \$17,739.00	0410-180-1851-3550	Community Emergency Response Team (CERT)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-237**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH IBM FOR HARDWARE MAINTENANCE FOR A PERIOD
OF FIVE YEARS IN THE AMOUNT OF \$49,928 PER YEAR**

WHEREAS, the City began using IBM equipment in 1992 through a competitively bid process including the maintenance of the equipment, and

WHEREAS, in 1997 the City began transitioning off of an IBM mainframe to a client/server environment using IBM's Unix computer systems, and

WHEREAS, the process included a renewed five year maintenance contract with IBM on their client/server platform, and

WHEREAS, said maintenance contract is up for renewal on May 14th 2003, and

WHEREAS, City staff recommends the maintenance contract be renewed for a period of five years in the amount of \$49,928 per year; and

WHEREAS, said five year contract provides the City with an 8% discount over their standard one-year contract, and

WHEREAS, said five year contract will save the City approximately \$4,000 per year or \$20,000 over the life of the contract, and

WHEREAS, said contract will also include the Police Department's IBM equipment, and

WHEREAS, IBM was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, City is desirous of entering into a contract with IBM for Information Technology hardware maintenance for a period of five years, and

WHEREAS, Information Technology staff views said contract as a cost effective measure for the City, and the Information Technology and Police Departments worked together to take advantage of economies of scale savings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the maintenance contract in the amount of \$49,928 per year with IBM for Information Technology hardware maintenance for a period of five years.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-238**

A RESOLUTION APPROVING ALLOCATION OF \$69,888 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND \$26,400 IN EMERGENCY SHELTER GRANT (ESG) FUNDING TO COMMUNITY HOUSING AND SHELTER SERVICES FOR FISCAL YEAR 2003-2004 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND EXECUTE THE NECESSARY DOCUMENTS TO IMPLEMENT SAID ALLOCATIONS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (H.U.D.), 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, local non-profit organizations were invited to submit Requests for Proposals (RFPs) for CDBG Public Service funds and for ESG funds, and

WHEREAS, a maximum of fifteen percent of the City's available CDBG entitlement grant may be allocated for the purposes 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, in Fiscal Year 2003-2004, fifteen percent of the City's available CDBG entitlement is \$433,500, of which \$150,000 was previously committed to the Modesto Police Department for the Crime Free Multi-Housing Program and \$260,633 was recommended for allocation by the Citizens Housing & Community Development Committee (CH&CDC) at its March 21, 2003, meeting, with the balance of \$22,867 to be allocated through a second RFP process, and

WHEREAS, the City allocates one hundred percent of its annual ESG to local non-profit organizations for the purposes of providing assistance that is consistent with the functions of ESG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, in Fiscal Year 2003-2004, the City's ESG grant is \$88,261, of which \$70,250 was recommended for allocation by the CH&CDC at its March 21, 2003, meeting, with the balance of \$18,011 to be allocated through a second RFP process, and

WHEREAS, on April 8, 2003, by Resolution No. 2003-184, the City Council approved allocation of \$190,745 in CDBG Public Service Grant funding to local non-profits, \$150,000 to the Modesto Police Department for the Crime Free Multi-Housing Program and \$43,850 in Emergency Shelter Grant funds, and

WHEREAS, at that time, staff has had cause to recommend that the \$69,888 in CDBG and \$26,400 in ESG funding recommended for allocation to Community Housing and Shelter Services be withheld pending further review of this organization, and

WHEREAS, staff has since found all allegations against Community Housing and Shelter Services to be unfounded and is now recommending approval of the recommendation of the CH&CDC to allocate \$69,888 in CDBG funds and \$26,400 in ESG funds to Community Housing and Shelter Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of \$69,888 in Fiscal Year 2003-2004 Community Development Block Grant funding and \$26,400 in Emergency Shelter Grant funding to Community Housing and Shelter Services.

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 necessary documents with respect to implementation of the allocation of Fiscal Year 2003-2004 CDBG/ESG Public Service Grant funding to Community Housing and Shelter Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-239**

A RESOLUTION DISCONTINUING THE CITY'S SMALL BUSINESS LOAN PROGRAM AND REMOVING THE ECONOMIC DEVELOPMENT LOAN COMMITTEE FROM THE CITY'S LIST OF ACTIVE COMMITTEES

WHEREAS, the City of Modesto has operated a Small Business Loan Program from funds available through Community Development Block Grant (CDBG), and

WHEREAS, of the 48 loans originated for \$1.8 million between 1988 and 1999, 33 loans have been repaid, and

WHEREAS, last year, the Small Business Loan Program was formally transitioned from C&ED to the Parks, Recreation and Neighborhoods Department (PR&N), and

WHEREAS, at the time of this transition, 15 loans were outstanding with a total dollar value of \$424,509; which equates to a 23% default rate on dollars spent in the Small Business Loan portfolio, and

WHEREAS, staff believes that the Small Business Loan Program has served its purpose and is no longer an effective program to offer to the residents of Modesto, and

WHEREAS, the City is meeting HUD's economic development objective by funding and supporting the Workforce Development Program, and

WHEREAS, the Citizen's Housing and Community Development Committee (CH&CDC) met on February 28, 2003, and supported and recommended discontinuing the City's Small Business Loan Program and removing of the Economic Development Loan Committee (EDLC) from the City's list of active committees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves discontinuing the City's Small Business Loan Program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby removes the Economic Development Loan Committee (EDLC) from the City's list of active committees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-240**

**A RESOLUTION APPROVING ACCEPTANCE OF THE REPORTS ON THE
FINANCIAL STATEMENT AUDITS AND THE PERFORMANCE AUDITS OF
THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICTS
PRESENTED BY VAVRINEK, TRINE, DAY & CO.**

WHEREAS, by motion, the City Council on June 11, 2002, directed that the City Manager, with assistance from the City Clerk & Auditor, obtain proposals for audits of the City of Modesto Community Facilities Districts, to be performed under oversight of the Audit Committee, and

WHEREAS, by Resolution No. 2002-521, on October 22, 2002, the City Council approved an Agreement for Auditor Services with the audit firm of Vavrinek, Trine, Day & Co. to perform the audits, and

WHEREAS, the audit firm met regularly with the Audit Committee to discuss its work, and

WHEREAS, the audit firm has presented its final audit reports to the Audit Committee, which accepted the financial statement audit and the performance audit reports, including the related management letters, on May 2, 2003, and on May 9, 2003, respectively, and

WHEREAS, the Audit Committee recommends that Council accept the audit reports,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the financial statement audit reports and the performance audit reports for the Community Facilities Districts as presented by Vavrinek, Trine, Day & Co.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-241**

**A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2003-2004
HUD ANNUAL ACTION PLAN AND AUTHORIZING THE CITY MANAGER
TO EXECUTE RELATED NECESSARY DOCUMENTS**

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), a HOME Investment Partnership Grant, 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 line, and the number of housing units that are considered substandard, and

WHEREAS, the Citizens Housing and Community Development Committee recommended support of this item at its May5, 2003 meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council at its meeting of May 13, 2003, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2003-2004 Fiscal Year 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 the 2003-2004 Fiscal Year Annual Action Plan as presented to the Council for the Community Development Block Grant (CDBG), HOME Investment Partnership Program

and the Emergency Shelter Grant (ESG) is hereby approved, a copy of said Annual Action Plan is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager or his authorized designee is hereby authorized to execute any and all documents necessary in relation to grant agreements, and City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2003-2004 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 13th day of May, 2003, by Councilmember Frohman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-242**

**A RESOLUTION ESTABLISHING CHARGES FOR POLICE DEPARTMENT
SERVICES RELATING TO FALSE ALARMS.**

WHEREAS, Section 3-11.16 of the Modesto Municipal Code authorizes the Council, by resolution, to establish service charges relating to false alarms, and

WHEREAS, Section 3-11.16 provides that a service charge will be charged by the City for false alarms or failure to respond to alarms by alarm owners or their designated representative, and

WHEREAS, Section 3-11.16 provides that multiple false alarms occurring in any twenty-four (24) hour period may be charged as one (1) call, if shown that the owner was not notified and provided the opportunity to correct the defect, and

WHEREAS, Section 3-11.16 provides that service charges will be based on an escalating scale determined by the frequency of false alarms, and,

WHEREAS, Section 3-11.16 provides that the Police Chief or his/her designee may suspend law enforcement response or revoke the alarm user permit if it is determined that the alarm user has five (5) false alarms in a twelve (12) month period excluding holdup or panic alarms, and

WHEREAS, Section 3-11.16 provides that the Police Chief or his/her designee may waive a service fee if the alarm owner/operator successfully completes a "False Alarm Reduction Class" presented by the Police Department,

WHEREAS, the Community Qualities Forum met on February 12, 2003 and reviewed the proposed fees, and the Safety and Communities Committee met on March 3, 2003 and unanimously approved the recommended fees, and

WHEREAS, the City Council held a public hearing at its regular meeting held on May 13, 2003, to consider the establishing of fees and charges as recommended by the Modesto Police Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Modesto Police Department False Alarm Service Charges are hereby established in accordance with the following schedule:

Alarm User Permit	NO CHARGE
Charge for No Alarm User Permit	\$200
First Response in a twelve (12) month period	no charge
Second Response in a twelve (12) month period	\$50
Third Response in a twelve (12) month period	\$100
Fourth Response in a twelve (12) month period	\$200
Fifth Response in a twelve (12) month period	\$400
Failure of Owner or Representative to Respond	\$100
Administrative Appeals Hearing	no charge

BE IT FURTHER RESOLVED, that this resolution shall become effective ninety (90) days from the date of adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Jackman, 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: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Conrad

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-243**

**A RESOLUTION ADOPTING THE VILLAGE ONE INFRASTRUCTURE
FINANCING PLAN WHICH REPLACES THE VILLAGE ONE FINANCE PLAN
ADOPTED IN OCTOBER 1990, AS PREVIOUSLY AMENDED**

WHEREAS, the Village One Infrastructure Financing Plan is required by the Village One Specific Plan, and

WHEREAS, on October 16, 1990, the City Council adopted the Village One Finance Plan (Resolution No. 90-828A), and

WHEREAS, on June 18, 1996, the City Council adopted a revised Village One Finance Plan (Resolution No. 96-346), and

WHEREAS, on August 13, 1996, the City Council adopted amendments to the Village One Finance Plan (Resolution No. 96-463), and

WHEREAS, a duly noticed public hearing was scheduled and held before the City Council on May 6, 2003 at 5:30 p.m. in the Chambers, Basement Level, Tenth Street Place, 1010 – 10th Street, Modesto, California, to consider adoption of the proposed Village One Infrastructure Financing Plan (April 2003) (“VI IFP”) that utilizes a combination of debt financing and one-time tax revenues to pay for the remaining CFD-funded infrastructure needed for the Village One area, and

WHEREAS, staff has recommend that periodic review of the VI IFP occur to assure that sufficient revenues will be collected to fund the remaining CFD-funded infrastructure,

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council hereby adopts the Village One Infrastructure Financing Plan (April 2003) ("VI IFP") that utilizes a combination of debt financing and one-time tax revenues to pay for the remaining CFD-funded infrastructure needed for the Village One area. A copy of the VI IFP is on file in the office of the City Clerk. The VI IFP replaces the Village One Financing Plan adopted in October 1990, as previously amended.

BE IT FURTHER RESOLVED that periodic review of the VI IFP shall occur to assure that sufficient revenues will be collected to fund the remaining CFD-funded infrastructure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

By: Mike Milich
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-244**

A RESOLUTION APPROVING AN APPROPRIATION TRANSFER OF \$35,000 FROM GENERAL FUND RESERVES TO THE VILLAGE ONE CFD #2 (FUND 2690) FOR THE CREATION OF THE NEW VILLAGE ONE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING A BUDGET FOR FUND 2690

WHEREAS, City Council is desirous of establishing a new Community Facilities District (“CFD”) in the Village One area to fund certain infrastructure remaining to be constructed, and

WHEREAS, the City of Modesto’s CFD Policies & Procedures provide that the costs associated with the formation of a CFD are to be paid from a deposit posted by the developer(s) initiating the formation of a CFD, and

WHEREAS, formation of the new CFD for the Village One area will not occur until the first unvested development project proceeds, and

WHEREAS, a moratorium is currently in effect in Village One and the City Council would like the first unvested development project to proceed as expeditiously as possible,

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 staff time and miscellaneous expenses associated with the formation of Village One CFD #2:

Transfers Between Funds

FROM:	0100-701-7001-7269	\$35,000.00
TO:	2690-701-7001-9010	\$35,000.00

Appropriations

FROM:	0100-800-8000-8003	\$35,000.00
TO:	2690-020-0206-0230	\$ 1,000.00
	2690-020-0206-0201	\$ 100.00
	2690-020-0206-0205	\$ 1,000.00
	2690-020-0206-0245	\$ 1,000.00
	2690-020-0206-0255	\$31,900.00

BE IT FURTHER RESOLVED that the amounts expended on the formation of the new Village One CFD shall be reimbursed to the City of Modesto, with simple interest of six (6%) percent, from the proceeds of the first bond sale authorized by the new Village One CFD.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

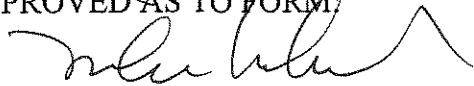
AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-245**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED
DEVELOPMENT ZONE, P-D(559) (DR. JAMES YIP)**

WHEREAS, a verified application for an amendment to Section 22-3-9 of the Zoning Map was filed by Dr. James Yip on October 18, 2002, to reclassify from Low-Density Residential Zone, R-1, and Professional Office, P-O, to Planned Development Zone, P-D(559), to allow a two-story medical office development, and associated off-street parking, property located at the southeast corner of Briggsmore Avenue and Coffee Road described as follows:

R-1 to P-D(559)

A portion of northwest quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the northwest corner of said Section 22; thence North 89° 52' 00" East along the north line of said Section 22, a distance of 274.00 feet to the centerline of Water Street; thence South 00° 27' 00" East along said centerline, a distance of 342.05 feet to the easterly prolongation of the south line of the north half of Lot 5, Block 1212 of Garden Acres Tract recorded in Book 14 of Maps, Page 9, Stanislaus County Records; thence South 89° 39' 00" West, a distance of 274.00 feet to the west line of said Section 22; thence North 00° 27' 00" West along said west line, a distance of 95.25 feet to the westerly prolongation of the south line of Lot 3 of said Block 1212; thence North 89° 39' 00" East along said prolongation and the south line of said Lot 3, a distance of 249.00 feet to the southeast corner of said Lot 3; thence North 00° 27' 00" West along the east line of said Lot 3, a distance of 63.50 feet; thence South 89° 39' 00" West along the north line of said Lot 3 and its westerly prolongation, a distance of 249.00 feet to said west line for Section 22; thence North 00° 27' 00" West along said west line, a distance of 184.31 feet to the point of beginning.

Containing 78,051 square feet or 1.79 acres, more or less.
P-O to P-D(559)

A portion of northwest quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Beginning at the southeast corner of Lot 3, Block 1212 as shown on Garden Acres Tract recorded in Book 14 of Maps, Page 9, Stanislaus County Records; thence North 00°27'00" West along the east line of said Lot 3, a distance of 63.50 feet; thence South 89°39'00" West along the north line of said Lot 3 and its westerly prolongation, a distance of 249.00 feet to said west line of Section 22; thence South 00°27'00" East along said west line, a distance of 63.50 to the westerly prolongation of the south line of said Lot 3; thence North 89°39'00" East along said prolongation and the said south line of Lot 3, a distance of 249.00 feet to the point of beginning.

Containing 15,812 square feet or 0.36 acres, more or less.

WHEREAS, after a public hearing held on April 7, 2003, 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. 2003-22, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The project site is large enough to accommodate the proposed planned development zone for medical offices and associated off-street parking, and is surrounded on three sides by an expressway, arterial, and residential street, and therefore will not result in adverse impacts to the adjacent residential neighborhood.
2. Due to the specifics of the proposed site design (masonry wall, access gate, etc.), the proposed planned development zone is compatible with existing and potential surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 13, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Dr. James Yip 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. 2003-22 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3297-C.S. on the 13th day of May, 2003, reclassifying the above-described property from Low-Density Residential, R-1, and Professional Office, P-O, to Planned Development Zone, P-D(559).

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(559), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and elevations titled "Proposed Office Building for Dr. James Yip" as amended in red, stamped approved by the City Council.
2. Fences or walls shall be constructed prior to occupancy and shall be as follows: Eight-foot-high masonry wall along the east property lines as shown on the approved plan.
3. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Chief Building Official. Screen landscaping shall be installed along the east property lines. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.
6. 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 Operations and Maintenance Director. Storm drain improvements shall be constructed in accordance with the approved plans.
7. Existing overhead and underground electric facilities shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Engineering and Transportation Director.
8. Street dedication consistent with Standard Specifications, and as shown on the approved site plan, shall be made prior to the issuance of a building permit or at any time requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
9. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
10. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
11. Ten-foot-wide public utility easements and four-foot planting easements located within the ten-foot-wide public utility easements shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
12. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the Engineering and Transportation Director.
13. All signs shall comply with the sign requirements of the P-O Zone.
14. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.
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.

16. Prior to issuance of any certificate of occupancy for the property, developer shall install a gate at the entrance to the driveway on Water Street, as shown on the site plan in red, stamped approved by the City Council. The gate shall be closed and locked during non-business hours, except that it shall provide for emergency vehicle access at all times as required by the Fire Marshall. The gate shall be maintained in proper working order at all times.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(559):

The entire construction program be accomplished in one phase, construction to begin within two years of approval by the City Council, and completion to be not later than three years from this same date.

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(559), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino


NOES: Councilmembers: None

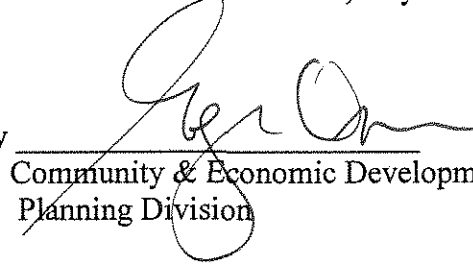
ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

By 
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-246**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN FINAL MASTER ENVIRONMENTAL IMPACT REPORT UPDATE (SCH NO. 1999082041): AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE FROM LOW- DENSITY RESIDENTIAL ZONE, R-1, AND PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(559), PROPERTY LOCATED AT THE SOUTHEAST CORNER OF BRIGGSMORE AVENUE AND COFFEE ROAD (DR. JAMES YIP)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report Update (“FMEIR Update”) (SCH No.1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Dr. James Yip has proposed that the zoning designation for property located at the southeast corner of Briggsmore Avenue and Coffee Road, be amended to rezone from Low Density Residential, R-1, and Professional Office, P-O, to Planned Development Zone, P-D(559), in the City of Modesto (“the project”), to allow for a two-story medical office development, and associated off-street parking, 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 2003-23 (“Initial Study”), reviewed

the proposed amendment to the Zoning Map and rezone to P-D(559) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan FMEIR Update, and concluded that the proposed project is within the scope of the FMEIR Update and will have no additional significant effect on the environment that was not identified in the FMEIR Update, 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 FMEIR Update, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 13, 2003, 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(556) 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 FMEIR Update (SCH No. 1999082041) as being within the scope of the FMEIR Update report.
2. That the project will have no new additional significant effects on the environment not identified in the FMEIR Update, 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 that are unique to the proposed project that require project specific mitigation measures.
Accordingly, the certified mitigation measures identified in the FMEIR Update will be sufficient for this project.
5. That all feasible mitigation measures set forth in the FMEIR Update 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 13th day of May, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-23

City of Modesto
Initial Study

Rezone from R-1 & P-O to P-D

EA/C&ED 2003-23

March 13, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
Public Hearing – P-PDZ-02-008: Application of Dr. James Yip for rezone from R-1 (Low-Density Residential Zone) and P-O (Professional Office) to P-D (Planned Development Zone) to allow a 17,800 square-foot medical office building and associated off-street parking.
- B. Lead agency name and address:
City of Modesto, P.O. Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:
Brad Wall
City of Modesto Community Development Department
1010 10th Street, Suite 3100
Modesto, CA 95353
(209) 577-5282
- D. Project Location:
Southeast corner of Briggsmore Avenue and Coffee Road
- E. Project Sponsor:
Dr. James Yip
- F. General Plan Designation:
Mixed Use (MU)
- G. Current Zoning:
Low-Density Residential (R-1), and Professional Office (P-O)

- H. Description of Proposed Project:
This is an application to rezone four parcels, totaling approximately one acre in size, from R-1 (Low-Density Residential Zone) and P-O (Professional Office) to P-D (Planned Development Zone), to allow a medical office building and associated off-street parking, located at the southeast corner of Briggsmore Avenue and Coffee Road. The proposed development consists of a two-story, 17,800 square-foot, medical office building and off-street parking. Some of the parking for the project is proposed to be located in a basement garage. Two driveways for vehicular access to Coffee Road are proposed, and one additional driveway to Water Street.
- I. Surrounding land uses:
Residential land uses exist to the east of the subject property, with commercial / office uses between Coffee Road and Water Street to the south. Memorial Hospital is across Briggsmore Ave. to the north, and commercial uses exist to the west, across Coffee Road.
- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as mixed use. The project is consistent with this designation and will not generate greater traffic volumes than those projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be additional development and increased demand for Water Supplies within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as cited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as cited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the project site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as mixed use. The project is consistent with this designation and will not generate flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and increased demand for Parks and Open Space within the Baseline Developed Area. This project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project will not generate any additional demand for schools beyond that anticipated in the General Plan MEIR. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will not result in additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The

Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.

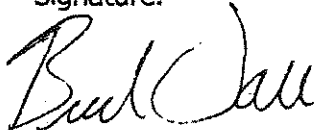
R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS / DETERMINATIONS OF FINDINGS

- A. The proposed planned development zone for a 17,800 square-foot professional office building and associated off-street parking is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Baseline Development Area.
- B. No additional significant environmental effects will occur as a result of the proposed planned development zone that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed planned development zone that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this proposed planned development zone that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Brad Wall,
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-247**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED
DEVELOPMENT ZONE, P-D(560) (BAINS)**

WHEREAS, a verified application for an amendment to Section 23-3-9 of the Zoning Map was filed by Rena Bains on December 30, 2002, to reclassify from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(560) to allow for two dental offices and a sign package for the First Church of the Nazarene, property located between Briggsmore Avenue and St. Paul's Way, east of Oakdale Road, described as follows:

R-1 to PD(560)

All that certain real property situate in a portion of the Northwest quarter of Section 23, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying within the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

“Parcel 2” as shown and designated on that certain Parcel Map file in the Office of the County Recorder of Stanislaus County, California, on May 4, 1972, in Book 14 of Parcel Maps, at Page 20;

Also including the Southerly one-half of East Briggsmore Avenue and the Northerly 40 feet of St. Paul's Way; all being immediately adjacent to the above-described property.

WHEREAS, after a public hearing held on April 7, 2003, 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. 2003-23, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed office development is consistent with the current land use designation for the site.

2. Dental Offices are compatible with the adjacent land uses along St. Paul's Way.

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 13, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Rena Bains 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. 2003-23 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. ?-C.S. on the 13th day of May, 2003, reclassifying the above-described property from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(560).

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(560), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "First Church of the Nazarene/Dental Office St. Paul's Way" 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 Chief Building Official. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
4. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
5. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.
6. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.
7. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.
8. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
9. 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 stormwater 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.
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.

11. The developer shall implement pre- and post-construction Best Management Practices (BMPs) to minimize pollutants entering the storm system.
12. All signs for the office portion of the Planned Development shall comply with the sign requirements of the P-O Zone.
13. Signs for the church shall be constructed in accordance with the approved plans and are as follows:
 - a. Along the Briggsmore Avenue frontage: A sign of a maximum of 72 square feet and 20 feet in height.
 - a. Along the western end of the parcel, facing the reciprocal accessway: A five-foot-high, approximately 20-square-foot sign.
14. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community & Economic Development Department Director.
15. Prior to the issuance of a building permit the developer shall execute a Reciprocal Easement Agreement which shall provide for vehicular and pedestrian access and vehicular parking for all three parcels. Said agreement shall be in a form to be approved by the City Attorney.
16. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(560):

The construction program be accomplished in two phases as follows:

Phase I – Construction to begin on or before May 13, 2006, and completion to be not later than May 13, 2007.

Phase II – Construction to begin on or before May 13, 2007, and completion to be not later than May 13, 2008.

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(560), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: 
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-248**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN FINAL MASTER ENVIRONMENTAL IMPACT REPORT UPDATE (SCH NO. 1999082041): AMENDMENT TO SECTION 23-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(560), PROPERTY LOCATED BETWEEN BRIGGSMORE AVENUE AND ST. PAUL'S WAY, EAST OF OAKDALE ROAD (RENA BAINS).

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report Update ("FMEIR Update") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Rena Bains has proposed that the zoning designation for property located between Briggsmore Avenue and Saint Paul's Way, east of Oakdale Road be amended to rezone from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(560), in the City of Modesto, ("the project") to allow for two dental offices and a sign package for the First Church of the Nazarene, 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 2003-25 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezone to P-D(560) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan FMEIR Update and concluded that the proposed project is within the scope of the FMEIR Update and will have no additional significant effect on the environment that was not identified in the FMEIR Update, 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 FMEIR Update, and

WHEREAS, in accordance with CEQA guidelines beginning on ?, 2003, 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 FMEIR Update, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 13, 2003, 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 (560) 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 FMEIR Update (SCH No. 1999082041) as being within the scope of the FMEIR Update.
2. That the project will have no new significant effects on the environment not identified or examined in the FMEIR Update, 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 FMEIR Update will be sufficient for this project.
5. That all feasible mitigation measures set forth in the FMEIR Update 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 thirteenth day of May, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City

Clerk

(SEAL)

APPROVED AS TO FORM:

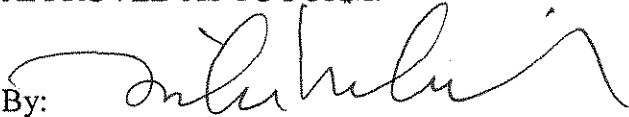
By: 
MICHAEL D. MILICH, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2003-25

City of Modesto
Initial Study

**Nazarene P-D
EA/C&ED 2003-25
March 20, 2003**

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
Nazarene P-D
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:
East of Oakdale Road, between St. Paul's Way and Briggsmore Avenue
- E. Project Sponsor:
Rena Bains, 1113 Mandarin Court, Modesto Ca. 95350
- F. General Plan Designation:
Mixed Use
- G. Current Zoning:
Single Family Residential (R-1)
- H. Description of Proposed Project:
This is an application to rezone 4.9 acres from R-1 to P-D to allow for the development of two single-story dental offices along the St. Paul's Way frontage and a sign package for the First Church of the Nazarene that includes one interior sign and one sign oriented toward Briggsmore Avenue.

- I. Surrounding land uses:
The project is surrounded by Briggsmore Avenue to the north, professional offices to the east, St. Paul's Way to the south and a church to the west.
- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as mixed-use. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further mixed-use development and thus, noise generation within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. Beyond this, professional offices do not generally use much water and the necessary water supply infrastructure already exists. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages

V-5-1 through IV-5-13) are therefore still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as mixed-use. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. This project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project, being non-residential, would not generate any additional demand for schools. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity(pages V-17-1 through V-17-12) are therefore still valid.

R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:

Josh Bridegroom,
Assistant Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-249**

**A RESOLUTION DENYING THE APPEAL OF JAYNA HAMEL TO A PLANNING
COMMISSION DECISION APPROVING THE REVISED MIRA LOMA VESTING
TENTATIVE SUBDIVISION MAP**

WHEREAS, Modesto Municipal Code Section 4-4.404 authorizes the Planning Commission to take action on proposed subdivision maps, and

WHEREAS, on April 29, 2002, Ridge Sutter submitted a vesting tentative subdivision map, Mira Loma, and

WHEREAS, the Planning Commission considered the application at their regularly scheduled meeting on August 26, 2002, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, on August 26, 2002, the Planning Commission denied the Mira Loma vesting tentative subdivision map due to inconsistency with the General Plan, because it did not provide for the connection of Encina Avenue, a designated collector street in the General Plan, and

WHEREAS, on September 3, 2002, Ridge Sutter filed a revised vesting tentative subdivision map, Mira Loma, that provided a connection of Encina Avenue via Julian Avenue, and

WHEREAS, the Planning Commission considered the application at their regularly scheduled meeting on November 18, 2002, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission approved the revised vesting tentative subdivision map, Mira Loma, because it provided for an indirect connection of Encina Avenue, a designated collector street, and

WHEREAS, an appeal to the Planning Commission's approval of the revised Mira Loma vesting tentative subdivision map was filed with the Office of the City Clerk by Paul and Sue Thorpe on December 2, 2002, and

WHEREAS, on January 7, 2003, the City Council by Resolution No. 2003-16 granted the appeal of Paul and Sue Thorpe for the following reasons:

1. Encina is intended to be a collector street pursuant to the General Plan.
2. The Map would have the effect of making Julian Street and a portion of Fusco Street into collector streets that are not so designated by the General Plan.
3. Policy III-C.2.e. (1) of the General Plan states that collector streets should provide direct linkages from the residences within a neighborhood to neighborhood facilities within the same neighborhood, such as schools, parks, etc., and a connection to peripheral arterials. The Map is inconsistent with the General Plan because the redirection of traffic from Encina to Fusco, Julian and Conejo Streets does not provide (1) a direct linkage via Encina from the residences to the east of the proposed subdivision to their neighborhood facilities, including but not limited to La Loma Junior High School and parks to the west, or (2) a direct connection via Encina from the residences to the west to the El Vista arterial.

WHEREAS, on January 23, 2003, Sutco Construction filed a second revised vesting tentative subdivision map, Mira Loma, that provided a direct connection of Encina Avenue through the project site, and

WHEREAS, a public hearing on the second revised vesting tentative subdivision map was held by the Planning Commission on April 7, 2003, 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, by Resolution No. 2003-20 the Planning Commission approved the revised vesting tentative subdivision map, Mira Loma, for the following reasons:

1. The proposed subdivision map, together with the provisions for its design and improvements, is consistent with the Subdivision Map Act of the State of California and the Modesto Urban Area General Plan, because it provides for a direct connection of Encina Avenue.
2. The discharge of waste as a result of the proposed subdivision into the existing sewer system will not result in a violation of existing requirements by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California.
3. An exception to the subdivision regulations of the City of Modesto is hereby granted to reduce the minimum 20-foot dimension at the front lot line to 15 feet for the two flag lots for the following reason:
 - a. The granting of the exception will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity or zone in which the property is located and will not nullify the intent and purpose of the General Plan or the subdivision regulations, because sufficient parking is provided in the alley at the rear of the flag lots.
4. Creation of the two flag lots will enable use of the project site to its permitted density.
5. The project site is of a size and shape that does not allow the creation of standard lots.
6. A plot plan for creation of the flag lots has been approved by the Planning Commission.
7. The proposed subdivision is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Baseline Development Area, because it provides a direct connection of Encina Avenue.
8. No additional significant environmental effects will occur as a result of the proposed subdivision that were not previously examined in the General Plan Master EIR.
9. No new mitigation measures or alternatives will be required as a result of the proposed subdivision that were not previously considered in the General Plan Master EIR.

10. There are no specific features unique to this subdivision that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.
11. The Initial Study, Environmental Assessment No. EA/C&ED 2003-22, provides the substantial evidence to support finding numbers 7-10, noted above.

WHEREAS, an appeal to the April 7, 2003, decision of the Planning Commission's was filed with the Office of the City Clerk by Jayna Hamel on April 21, 2003, 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 Tenth Street, Modesto, California, at 5:30 p.m. on May 13, 2003, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal to the decision of the Planning Commission should be denied and the decision of the Planning Commission should be affirmed for the following reasons:

1. The approved vesting tentative subdivision map, Mira Loma, is consistent with the General Plan.
2. The approved vesting tentative subdivision map, Mira Loma, provides a direct connection of Encina Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Jayna Hamel to the decision of the Planning Commission approving the revised Mira Loma vesting tentative subdivision map is denied and the decision of the Planning Commission is hereby affirmed for the reasons set forth in Planning Commission Resolution No. 2003-20 and quoted above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-250**

A RESOLUTION APPROVING ISSUANCE OF A WRITTEN REPORT DESCRIBING THE MEASURES TAKEN TO ALLEVIATE THE CONDITION WHICH LEAD TO THE ADOPTION OF AN ORDINANCE (ORDINANCE NO. 3265-C.S.) WHICH PROHIBITED NEW DEVELOPMENT APPROVALS ON UNVESTED LAND IN VILLAGE ONE.

WHEREAS, on June 4, 2002, the Modesto City Council adopted an emergency interim ordinance (Ordinance No 3263-C.S.), and

WHEREAS, on July 9, 2002, the Modesto City Council adopted Ordinance No. 3265-C.S. extending Ordinance 3263-C.S., and

WHEREAS, Interim Ordinance No. 3263-C.S. and Ordinance No. 3265-C.S. were adopted pursuant to the authority conferred upon the City by California Government Code Section 65858, and

WHEREAS, subdivision (d) of California Government Code Section 65858 requires the City Council to issue a written report describing the measures taken to alleviate the condition which lead to the adoption of the interim ordinance ten (10) days prior to the expiration of interim ordinance, and

WHEREAS, the Community and Economic Development Department of the City of Modesto has prepared such a report for issuance by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the issuance of the attached written report which describes the measures taken by the City to alleviate the conditions which lead to the adoption of Ordinance No. 3265-C.S.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2003, by Councilmember Frohman, 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: Conrad, Frohman, Jackman, Keating, O'Bryant
Mayor Sabatino

NOES: Councilmembers None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-251**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "2002 PARK
RESTROOM CONSTRUCTION" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "2002 Park Restroom Construction", has been completed by Barham, Inc., in accordance with the contract agreement dated August 27, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "2002 Park Restroom Construction" project is hereby accepted from said contractor, Barham, Inc., that City Staff is hereby directed to file the Notice of Completion with the Recorder of Stanislaus County and that payment of amounts due totaling \$59,822.76 as provided in the contract, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-252**

A RESOLUTION REJECTING THE BIDS FOR THE PROJECT TITLED “ADA UPGRADES FOR KING-KENNEDY MEMORIAL CENTER” AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE

WHEREAS, the bids received for the ADA Upgrades for King-Kennedy Memorial Center, were opened at 11:00 a.m. on April 22, 2003, and

WHEREAS, during the bid evaluation process, staff determined that the bids unreasonably exceed 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 bids received for the ADA Upgrades for King-Kennedy Memorial Center, opened in the office of the City Clerk on April 22, 2003, are hereby rejected.

BE IF 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 May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-253**

**A RESOLUTION APPROVING A CONTRACT AMENDMENT WITH RRM
DESIGN GROUP IN THE AMOUNT OF \$30,600 FOR ARCHITECTURAL
SERVICES FOR FIRE STATION NO. 11, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the increased scope of the work for this project was reviewed by the Safety and Communities Committee at its meeting on May 5, 2003 and was recommended for Council approval, and

WHEREAS, City staff requested a second access onto the site from Pelandale for fire apparatus, and

WHEREAS, RRM Design Group has requested an additional fee of \$30,600 to cover the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the contract amendment with RRM Design Group in the amount of \$30,600 for architectural services for Fire Station No. 11.

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 May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-254**

**A RESOLUTION AMENDING THE FY02-03 CAPITAL IMPROVEMENT
BUDGET TO TRANSFER \$103,230.00 FROM 6280-700-Q238-7135 TO 1350-310-
Q238-9628.**

WHEREAS, the bids received for the COFFEE-CLARATINA NEIGHBORHOOD PARK AND DUAL USE BASIN project, were opened at 11:00 a.m. on May 13, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the bid of \$909,700.11 be accepted as the lowest responsible bid and Finance has determined that there is \$994,304.12 available for this project in FY02-03 Capital Improvement Program, and

WHEREAS, the need for \$103,230.00 to construct the improvements for the storm water basin portion of the project has been identified, and

WHEREAS, the City of Modesto's Operations and Maintenance Department has identified the storm water basin improvements of \$103,230.00 for this project to be paid from 6280-700-Q238-7135,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY02-03 Capital Improvement Budget to transfer \$103,230.00 from 6280-700-Q238-7135 to 1350-310-Q238-9628.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized take the necessary action to amend the FY 02-03 Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-255**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$909,700.11
CONTRACT WITH GROVER LANDSCAPE SERVICES, INC. FOR THE
PROJECT TITLED "COFFEE-CLARATINA NEIGHBORHOOD PARK AND
DUAL USE BASIN" AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE CONTRACT**

WHEREAS, the bids received for the COFFEE-CLARATINA
NEIGHBORHOOD PARK AND DUAL USE BASIN project, were opened at 11:00 a.m.
on May 13, 2003, and later tabulated by the Engineering and Transportation Director for
the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that
the bid of \$909,700.11 received from Grover Landscape Services, Inc. be accepted as the
lowest responsible bid and the contract be awarded to Grover Landscape Services, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby accepts the bid of \$909,700.11, and hereby awards Grover Landscape
Services, Inc. the contract titled "COFFEE-CLARATINA NEIGHBORHOOD PARK
AND DUAL USE BASIN."

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 May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-256**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE STANISLAUS COUNCIL OF GOVERNMENTS FOR REGIONAL SURFACE TRANSPORTATION PROGRAM (RSTP) FUNDS FOR VARIOUS PROJECTS RELATING TO THE PAVEMENT MAINTENANCE OF ARTERIAL STREETS, AND TO EXECUTE THE NECESSARY GRANT APPLICATIONS AND DOCUMENTS NECESSARY TO OBTAIN SAID FUNDING.

WHEREAS, on May 12, 2003, the Stanislaus Council of Governments (StanCOG) Policy Board approved guidelines to allocate Regional Surface Transportation Program (RSTP) program funds to eligible proposers for the Federal Fiscal Year 2003/04 and 2004/05, and

WHEREAS, on March 14, 2003, StanCOG staff distributed a call for RSTP project nominations to local jurisdictions, further stipulating that \$7,880,000 of RSTP funding was estimated for distribution among local agencies County-wide, and

WHEREAS, pursuant to StanCOG guidelines for distribution to local governments in Stanislaus County, including an estimate of funds available to each, the City of Modesto anticipates \$2,770,000 in funds for eligible pavement maintenance projects on arterial streets, and

WHEREAS, City staff has identified 40 projects for funding which are in need of pavement maintenance, and

WHEREAS, the Economic Development Committee has reviewed said projects generally and recommends approval of the projects for RSTP funding and prioritization of the projects as shown on **Exhibit A**, and

WHEREAS, RSTP grants require an 11.47% local match of funds, and

WHEREAS, the match required for many of the projects may be funded out of Local Gas Tax Funds, Local Transportation Funds or Transit Fare Revenues, and

WHEREAS, applications for each project are required to be submitted to the Stanislaus Council of Governments by June 2, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his authorized designee, to apply to the Stanislaus Council of Governments for Regional Surface Transportation Program (RSTP) funds to be used for various projects set forth in the attached **Exhibit "A"**, recommended by City staff, which will assist in the pavement maintenance of arterial streets.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute all applications and documents necessary to obtain said funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

New Priority	Street Name	Limits		Length miles	PCI Lowest	Cost (\$1000's)	ADT k's	\$/VMT	\$/VMT xPCI	Comments
		From	To							
1	I St	14th	Downey Ave.	0.3	20	\$470	8.9	178.0	35.2	Overlay - Completion of previous project.
2	Coffee Rd	Sylvan	Mable	0.4	13	\$870	17.0	127.9	16.6	Overlay & reconstruct
3	Sylvan Ave	McHenry	Rexford	0.62	10	\$1,147	30.0	61.7	6.2	Overlay & reconstruct
4	9th Street	Tully	Carver	0.78	29	\$397	22.0	23.1	6.7	Overlay & reconstruct
5	Claus Rd	2440' N. of 132	Scenic	0.84	16	\$726	20.0	43.2	6.9	Overlay
6	Oakdale Rd	Floyd	Sylvan	0.74	16	\$907	26.0	47.1	7.5	Overlay
7	Oakdale Rd	Scenic	Briggsmore	0.90	30	\$938	34.0	28.7	8.6	Overlay
8	Oakdale Rd	Briggsmore	Floyd	0.76	47	\$604	34.0	23.4	11.0	Overlay
9	Claus Rd	Scenic	Briggsmore	0.63	16	\$934	21.0	70.6	11.3	Overlay
10	B St	9th	12th	0.2	10	\$246	9.0	136.1	13.6	Overlay
11	Carpenter	Maze	End of C&G	0.29	46	\$197	21.0	32.3	14.9	Overlay
12	E. Orangeburg	McHenry	Brannon	0.65	21	\$861	18.0	73.6	15.6	Overlay
13	9th St.	L St.	MID Lat. 4	0.5	41	\$400	21.1	37.9	15.5	Track removal & Kansas/Needham required prior to project also Kansas/Needham should be completed
14	Sylvan Ave	Rexford	Selby	0.37	21	\$825	30.0	74.3	15.6	Overlay
15	G St	Sierra	17th St.	0.63	37	\$503	17.0	47.0	17.4	Overlay
16	Woodland	Morse	SR99 OC	1.2	36	\$642	9.8	54.6	19.7	City portion only
17	Sisk Rd	Width Change	Pelandale	0.64	43	\$435	14.0	48.5	20.9	Reconstruct
18	Pelandale Ave	Gagos	Blue Bird	0.22	49	\$217	23.0	42.9	21.0	Overlay
19	Dale Rd	Standiford	Nightingale	0.64	33	\$782	19.0	64.3	21.2	Overlay
20	Prescott Rd	Rumble	Cheyenne	0.57	16	\$963	12.0	140.8	22.5	Overlay
21	Tully Rd	Yale	Briggsmore	1.09	41	\$1,203	19.0	58.1	23.8	Overlay
22	H St.	17th	Burney	0.16	50	\$130	17	47.8	23.9	Overlay
23	Kansas	Emerald	Carpenter	0.5	40	\$486	15.3	63.5	25.4	City portion only
24	Tully Rd	W. Rumble	Standiford	0.49	50	\$561	22.0	52.0	26.0	Reconstruct-pending resolution of round about project.
25	Needham Ave	12th	L St	0.28	39	\$289	15.0	68.8	26.8	Overlay
26	Lakewood Ave	Scenic	Briggsmore	0.8	32	\$839	12.0	87.4	28.0	Overlay
27	Paradise Rd	Sutter	Ellen	0.12	45	\$137	16.0	71.4	32.1	Overlay
28	Tuolumne Ave	Roselawn	Madera	0.27	30	\$306	10.0	113.3	34.0	Overlay
29	9th St.	B St.	D St.	0.2	72	\$224	23.1	48.5	34.9	Track removal & 9th St. Bridge required prior to project.
30	Sisk Rd	Standiford	Width Change	0.9	45	\$912	13.0	77.9	35.1	Overlay
31	Plaza Parkway	Sisk Rd.	Prescott Rd.	0.4	43	\$376	8.5	110.6	47.6	Overlay
32	E. Orangeburg	at MID Pipeline		0.2	68	\$200	13.9	71.9	48.9	Remove grade problem-east of Oakdale Rd.
33	7th St	I St	K St	0.42	44	\$339	7.0	115.3	50.7	Overlay
34	Prescott Rd	Cheyenne	Snyder	0.23	31	\$305	8.0	165.8	51.4	Overlay
35	Dale Rd	Nightingale	Pelandale	0.39	48	\$636	14.0	116.5	55.9	Overlay
36	College Ave	Briggsmore	Bowen	0.29	49	\$301	8.0	129.7	63.6	Overlay
37	Rosemore	Kansas	Woodland	0.05	39	\$37	3.5	211.4	82.5	City portion only
38	H St.	5th St.	Sutter Ave.	0.7	51	\$1,040	7.0	212.2	108.2	Overlay
39	Lincoln Ave	Yosemite	Dry Creek	0.75	50	\$976	6.0	216.9	108.4	Overlay
40	Rosemore	Woodland	Bluegum	0.5	62	\$359	3.5	205.1	127.2	Overlay

RSTP/CMAQ DISTRIBUTION GUIDELINES

Apportionment Breakdown by Fund Type
RSTP: Formula-\$7,800,000
CMAQ: Formula-\$4,250,000
CMAQ: Regional Competitive (35%)-\$2,975,000
CMAQ: Regional Discretionary (15%)-\$1,275,000

Jurisdiction	RSTP DISTRIBUTION				CMAQ DISTRIBUTION	
	Total Population as of May 2001 -1 (Weight 70%)	Federal Aid Eligible Road Miles -2 (Weight 30%)	Percent by Formula	Share of Available RSTP Formula Funds (\$7.8 M base)	Percent by Population	Share of Available CMAQ 50% Formula Funds (\$4.25 M base)
COUNTY	109,200	472	34.37%	\$2,708,019	23.74	\$1,009,154
MODESTO	194,400	148	35.15%	\$2,770,103	42.27	\$1,796,517
TURLOCK	57,800	82	11.88%	\$936,180	12.57	\$534,149
CERES	35,350	29	6.47%	\$509,904	7.69	\$326,881
OAKDALE	15,800	23	3.27%	\$257,643	3.44	\$146,013
RIVERBANK	16,300	15	3.04%	\$239,941	3.54	\$150,634
PATTERSON	12,300	13	2.36%	\$186,040	2.67	\$113,668
WATERFORD	7,075	5	1.26%	\$99,671	1.54	\$65,382
NEWMAN	7,525	5	1.33%	\$105,068	1.64	\$69,541
HUGHSON	4,140	6	0.86%	\$67,430	0.90	\$38,259
RSTP Carryover - \$270,000-not added to base						0
TOTALS	459,890	798	100.00%	\$7,800,000	100.00	\$4,250,000
-3 RSTP off-the-top deduction - \$190,000				\$7,880,000		\$4,250,000
Available to Program						\$4,250,000

Reg. Comp. (35%) =	\$2,975,000
	(\$269,000) -4
Reg. Comp. balance	\$2,706,000
Reg. Disc. (15%) =	\$1,275,000
Total CMAQ Available	\$8,500,000

-1 Source: Department of Finance
-2 Source: Caltrans as of April 2001
-3 \$80,000 set aside for Consultant Assistant for Local Project Delivery and \$110,000 for Local Projects Delivery Planner for 2 years
-4 \$269,000 held in reserve for FFY 2004/05 to come off-the-top of the Regional Competitive portion for City of Patterson's "M Street and Hwy 33 signalization and realignment of M Street"

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-257**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE STANISLAUS COUNCIL OF GOVERNMENTS FOR FEDERAL CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS FOR VARIOUS PROJECTS RELATING TO THE REDUCTION OF AIR POLLUTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS TO OBTAIN SAID FUNDING

WHEREAS, on October 11, 2000, the Stanislaus Council of Governments (StanCOG) Policy Board approved guidelines to allocate Congestion Mitigation and Air Quality (CMAQ) program funds to eligible proposers for the Federal Fiscal Year 2003/04 and 2004/05, and

WHEREAS, on March 14, 2003, StanCOG staff distributed a call for CMAQ project nominations to local jurisdictions, further stipulating that \$6,356,539 of CMAQ funding was available for distribution among local agencies County-wide, and

WHEREAS, pursuant to StanCOG guidelines for distribution to local governments in Stanislaus County, including an estimate of funds available to each, the City of Modesto anticipates \$1,798,016 in funds for eligible projects of its own choosing, and can also compete for as much as \$4,250,000 available for projects that do the most to reduce air pollution in the county, and

WHEREAS, City staff has identified 17 projects for funding which will contribute to the attainment of national ambient air quality standards, and

WHEREAS, the Economic Development Committee reviewed said projects generally at its meeting on May 12, 2003, and recommended approval of the projects for CMAQ funding, and

WHEREAS, CMAQ grants require an 11.47% local match of funds, and

WHEREAS, the match required for many of the projects may be funded out of Local Gas Tax Funds, Local Transportation Funds, or Transit Fare Box Revenues, and

WHEREAS, applications for each project are required to be submitted to the Stanislaus Council of Governments by June 2, 2003, and

WHEREAS, the Stanislaus Council of Governments will make a recommendation to the StanCOG Policy Board for project funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his authorized designee, to apply to the Stanislaus Council of Governments for Federal Congestion Mitigation and Air Quality (CMAQ) funds to be used for various projects set forth in the attached **Exhibit "A"**, recommended by City staff which will reduce air pollution.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute all applications and documents necessary to obtain said funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Proposed 2003/04 & 2004/05 CMAQ Projects

<u>General Improvements</u>	<u>Total Cost</u>	<u>CMAQ</u>	<u>City Match</u>
Woodland Improvements	\$400,000	\$354,120	\$45,880
Lighted Crosswalks	\$250,000	\$221,325	\$28,675
Right-turn Lane Sisk/NB 99	\$350,000	\$309,855	\$40,145
Right-turn Lane Dale/Pelandale	\$250,000	\$221,325	\$28,675
Right-turn Lane Scenic/EIVista	\$350,000	\$309,855	\$40,145
Right-turn Lane McHenry/Orangeburg	\$250,000	\$221,325	\$28,675
Scenic Bike Lane Roundabouts & Median Scenic @ Lakewood, Sonoma, Lillian	\$1,500,000	\$1,327,950	\$172,050
 <u>Signals</u>			
Retime Signals Outside Downtown	\$350,000	\$309,855	\$40,145
New Signals-Downtown 3 15th/J, 13th/J, 13th/I	\$420,000	\$371,826	\$48,174
Upgrade Signals Various LaLoma/Santa Ana, Needham/12th	\$320,000	\$283,296	\$36,704
 <u>ATMS</u>			
Fiber - Pelandale CCTV Cameras	\$425,000	\$376,253	\$48,748
 <u>Roundabouts</u>			
Arterial - Locations Sylvan/Roselle @ Millbrook @ Litt, Orangeburg/Lakewood	\$1,000,000	\$885,300	\$114,700
Collector - Locations College/Bowen, Encina/Conejo, Floyd/Sunrise, LaLoma/Buena Vista	\$500,000	\$442,650	\$57,350
 <u>Transit</u>			
MCI Commuter Bus	\$450,000	\$178,916	\$271,084
Commuter Bus	\$350,000	\$309,855	\$40,145
Exhaust Scrubbers	\$143,000	\$126,598	\$16,402
Employee Rideshare	\$120,000	\$106,236	\$13,764
 Total Project Costs			
	\$7,428,000	\$6,356,539	\$1,071,461
 CMAQ Formula			
	\$1,798,016		
CMAQ Competitive			
	\$2,975,000		
CMAQ Discretionary			
	\$1,275,000		
 Total CMAQ Funds			
	\$6,048,016		

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-258**

A RESOLUTION APPROVING AN AGREEMENT WITH THE CITY OF RIVERBANK FOR THE MAINTENANCE OF THEIR TRAFFIC SIGNALS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Riverbank has requested that the City of Modesto maintain their traffic signal system to improve response times, and

WHEREAS, the City of Riverbank does not have qualified staff to maintain these signals, and

WHEREAS, the City of Modesto has qualified personnel to provide this service and will benefit from the revenues obtained by this enterprise, and

WHEREAS, the traffic flow between both cities will be managed from a centralized location, therefore benefiting both communities, and

WHEREAS, it is estimated that the cost to maintain the City of Riverbank's traffic signals will be \$3,260 per year, and

WHEREAS, the cost of \$3,260 includes labor, equipment, and overhead, and replacement parts will be billed on an as-needed basis, and

WHEREAS, the Economic Development Committee reviewed and approved this agreement at their February 10, 2003, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto and the City of Riverbank for maintenance of their traffic signal system for the sum of \$3,260 per year be, and it 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 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-259**

A RESOLUTION AMENDING THE FISCAL YEAR 2002-03 OPERATING BUDGET TO APPROPRIATE \$3,260 IN REVENUE, FROM THE CITY OF RIVERBANK, TO ACCOUNT NO. 0100-160-1612-4063, "TRAFFIC SIGNAL MAINTENANCE-CITY OF RIVERBANK"

WHEREAS, the City of Riverbank has requested that the City of Modesto maintain their traffic signal system to improve response times, and

WHEREAS, the City of Riverbank does not have qualified staff to maintain these signals, and

WHEREAS, the City of Modesto has qualified personnel to provide this service and will benefit from the revenues obtained by this enterprise, and

WHEREAS, the Economic Development Committee reviewed and approved this agreement at their February 10, 2003, meeting, and

WHEREAS, it is estimated that the cost to maintain the City of Riverbank's traffic signals will be \$3,260 per year, and

WHEREAS, the \$3,260 includes labor, equipment, and overhead, and replacement parts will be billed on an as-needed basis, and

WHEREAS, the FY 02/03 Operating Budget shall be amended as follows to appropriate \$3,260 in revenue and expenses to accounts:

Fund/Agency/Org/Object	Title of Account	Increase (Decrease)
Expenditures		
0100-160-1612-0223	R&M Outside	\$3,260
Revenue		
0100-160-1612-4063	Traffic Signal Maintenance-City of Riverbank	\$3,260

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2002-03 Operating Budget to appropriate funds for the City of Riverbank Traffic Signal Maintenance in the amount of \$3,260.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-260**

A RESOLUTION AWARDED BID AND APPROVING A \$181,394 CONTRACT WITH COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED "ROADWAY ILLUMINATION AT 29 INTERSECTIONS"

WHEREAS, the bids received for the, "Roadway Illumination at 29 Intersections," project were opened at 11:00 a.m., on April 29, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$181,394, received from Collins Electrical Company, Inc., be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for "Roadway Illumination At 29 Intersections" to Collins Electrical Company, Inc., and approves a \$181,394 contract for completion of said 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 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-261**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO TRANSFER \$40,000 FROM ACCOUNT NO. 0700-800-8000-8003, "GAS TAX RESERVES" TO ACCOUNT NO. 2300-160-N415-6040, "ROADWAY ILLUMINATION AT 29 INTERSECTIONS," TO RECOGNIZE THE ADDITIONAL REVENUE REQUIRED TO PROVIDE SUFFICIENT FUNDS TO FULLY COVER THE ANTICIPATED CONSTRUCTION EXPENSE

WHEREAS, on April 29, 2003, the City Council received bids for a project titled "Roadway Illumination at 29 Intersections," and

WHEREAS, the acceptable low bidder was Collins Electrical Company, Inc., of Modesto, California, with a bid of \$181,394, and

WHEREAS, the City has obtained Hazard Elimination and Safety (HES) funding to pay for up to \$169,000 of the project costs, and

WHEREAS, \$40,000 in additional local matching funds is required to fully fund the construction of this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Improvement Budget is hereby amended to transfer \$40,000 from Account No. 0700-800-8000-8003, "Gas Tax Reserves" to project Account No. 2300-160-N415-6040, for the "Roadway Illumination at 29 Intersections" to recognize the additional revenue required to provide sufficient funds to fully cover the anticipated construction expense.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-262**

A RESOLUTION AWARDED BID AND APPROVING A \$52,720 CONSTRUCTION CONTRACT WITH JACINO ELECTRICAL FOR THE PROJECT ENTITLED "ROADWAY ILLUMINATION MCHENRY VILLAGE AREA-FIVE STREETS." THE STREETS RECEIVING THE ROADWAY ILLUMINATION IMPROVEMENTS ARE HONEYSUCKLE LANE, GARDENIA AVENUE, CAMEO WAY, AND DIXIE LANE.

WHEREAS, the bids received for the "Roadway Illumination McHenry Village Area-Five Streets" project were opened at 11:00 a.m., on May 6, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$52,720 received from Jacino Electrical be accepted as the lowest responsible bid and the contract be awarded to Jacino Electrical,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Jacino Electrical and approves the contract titled "Roadway Illumination McHenry Village Area-Five Streets," in the amount of \$52,720,

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 May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-263**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE VILLAGE
HIGHLANDS NO. 6 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN
AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, GARRARD W. MARSH and DALLAS KADRY, Husband and
Wife as Joint Tenants, and INLAND VILLAGE, a General Partnership by Heritage
Homes, LLC General Partner, are the subdividers of the Village Highlands No. 6
Subdivision, and

WHEREAS, GARRARD W. MARSH, DALLAS KADRY and INLAND
VILLAGE, have filed irrevocable subdivision bonds to secure faithful performance and
payment for labor and materials in the amount of \$846,475.00 and \$846,475.00,
respectively, and

WHEREAS, GARRARD W. MARSH, DALLAS KADRY, and INLAND
VILLAGE, have filed a warranty bond in the amount of \$84,647.00 to guarantee
improvements in the Village Highlands No. 6 Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to
Council, indicates that all work required by the Subdivision Agreement has been
completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it
would be in order for the City Council to accept the improvements in said subdivision as
complete, and authorize the City Clerk to file a Notice of Completion and release the
bonds upon expiration of the statutory periods,

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

that:

1. The improvements in the Village Highlands No. 6 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$846,475.00 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 \$846,475.00 sixty (60) days after the filing date 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 improvements in the amount of \$84,647.00 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 May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Alison Barratt-Green

ALISON BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-264**

**A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE
FISCAL YEAR 2003-2004 ANNUAL TRANSPORTATION CLAIM, FOR
TRANSIT PURPOSES ONLY, TO THE STANISLAUS COUNCIL OF
GOVERNMENTS**

WHEREAS, the greatest portion of the City's funding for the Transit Service Program, other than fare revenues and federal funds, is the Local Transportation Fund (LTF), and

WHEREAS, on February 12, 2003, the Stanislaus Council of Governments (StanCOG) pursuant to Section 99401.6 of the California Public Utility Codes (PUC) 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 LTF funding has been apportioned by the State to StanCOG for allocation to transportation public agencies pursuant to Sections 99233.3 and 99234 of the California PUC, and

WHEREAS, the City has developed an application for fiscal year 2004 LTF reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's transit LTF claim for fiscal year 2004 is \$3,622,716, and

WHEREAS, the total transit operating budget is \$10,166,787, and

WHEREAS, the total transit capital budget is \$19,745,679, and

WHEREAS, Council action authorizing the claim is required by StanCOG pursuant to Section 99261 of the California PUC before any LTF 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 annual LTF transit claim in the amount of \$3,622,716, and

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit the transit claim for apportionment of LTF funds to StanCOG for Fiscal Year 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Council member Fisher, who moved its adoption, which motion being duly seconded by Council member Keating, was upon roll call carried and the resolution adopted by the following vote:

Ayes. Council members: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

Noes: Council members: None

Absent: Council members Frohman

Attest: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-265**

A RESOLUTION AUTHORIZING THE PURCHASE OF TRAINING EQUIPMENT RELATED TO THE PROGRAM ON DOMESTIC PREPAREDNESS, NUNN-LUGER-DOMENICI (NLD) LEGISLATION IN THE AMOUNT OF \$116,840.27 FROM FISHER SCIENTIFIC AND AUTHORIZING ADDITIONAL SMALLER PURCHASES WHICH SHALL BE MADE IN AN AMOUNT NOT TO EXCEED THE GRANT FUNDING AVAILABLE, ALL OF WHICH WILL BE UNDER THE FORMAL BID LIMITS.

WHEREAS, the City of Modesto was identified as one of the 120 largest cities targeted for Domestic Preparedness training under the Nunn-Lugar-Domenici legislation which provides funding for training materials, instructors and facilities, and

WHEREAS, the City Council accepted the Nunn-Lugar-Domenici grant on July 16, 2002, and

WHEREAS, City staff has worked for several months with the Stanislaus County Department of Environmental Resources, fire departments and law enforcement agencies, and many other emergency management agencies within Stanislaus County, as well as State Office of Emergency Services representatives to establish a list of personal protective gear, detection equipment, and decontamination equipment to be purchased under this grant, and

WHEREAS, the Stanislaus County Purchasing Division has solicited competitive bids for the items, and

WHEREAS, Fisher Scientific presented the lowest responsive and responsible bid in the amount of \$116,840.27, and

WHEREAS, the Purchasing Supervisor at his discretion per Modesto Municipal Code (M.M.C.), Section 8-3.204(d), determined that a process other than the formal bid procedure set forth in M.M.C. Section 8-3.204 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS piggy-backing off the County of Stanislaus' competitive bids will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, soliciting bids would produce the same end result and would expend limited staff resources in the process, and

WHEREAS, additional smaller purchases will be made in an amount not to exceed the grant funding available, all of which will be in an amount under the formal bid requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of training equipment related to the Program for Domestic Preparedness, Nunn-Lugar-Domenici legislation in the amount of \$116,840.27 from Fisher Scientific is hereby approved.

BE IT FURTHER RESOLVED, that the Council hereby approves additional smaller purchases which shall be made in an amount not to exceed the grant funding available, all of which will be under the formal bid limit.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-266**

**A RESOLUTION AUTHORIZING AMENDING A 5309 GRANT WITH THE
FEDERAL TRANSIT ADMINISTRATION FOR THE NEW BUS MAINTENANCE
FACILITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL
GRANT AGREEMENT DOCUMENTS**

WHEREAS, the City of Modesto currently has a 5309 Grant for \$3,668,116 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, an additional \$2,120,260 in federal funds are available for this project, and

WHEREAS, a grant amendment is required to access these funds, and

WHEREAS, the City of Modesto's Strategic Plan includes Strategy III.B.1: "Develop an efficient, well coordinated, county-wide, multi-modal transportation system", and

WHEREAS, the Modesto Area Express is a critical component of the transportation system, and

WHEREAS, amendment of the 5309 Grant will provide additional federal funding which is earmarked by Congress for the Bus Maintenance Facility project, and

WHEREAS, by a report to the Council dated May 12, 2003, from the Engineering and Transportation Department Director, City staff recommended amending the 5309 Grant to recognize additional available funds in the amount of \$2,120,260, and

WHEREAS, a duly noticed public hearing was held by the City Council on this proposed amendment on May 27, 2003 at 5:30 p.m., in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California in accordance with FTA regulations, and to receive public input.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the amendment of the 5309 Grant for federal assistance 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 Federal Transit Administration to include an additional \$2,120,260 in available federal funds.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute and file the annual certifications and assurances, grant agreements, and other documents the Federal Transit Administration requires for awarding a federal assistance grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

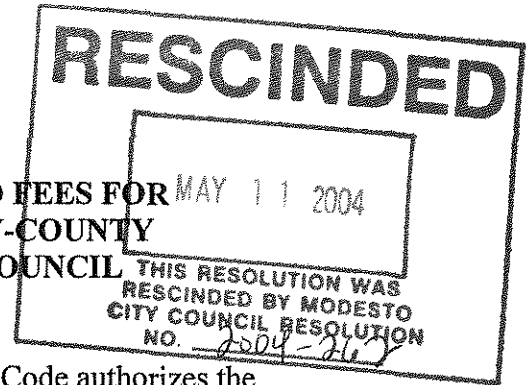
(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-267

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. 2002-304



WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes the Council, by resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States, which is used as the measurement for airport rates and fees adjustment, increased at a rate of two and two-tenths percent (2.2%), and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 2.2% rate increase for general aviation, hangars, offices, and tie-downs at its meeting on March 19, 2003, and

WHEREAS, the Economic Development Committee considered the rate increase at their meeting on April 7, 2003 and recommended the City Council increase general aviation, hangars, offices, and tie-downs by 2.2%, and

WHEREAS, by an agenda report to the City Council from the Engineering and Transportation Director dated May 13, 2003, City staff recommended a rate increase of 2.2% for aircraft hangars, office space, and tie-down rentals, and,

WHEREAS, a duly noticed public hearing was held by the Council on May 27, 2003, 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 an 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:

(1) T-Hangars

Hangar A	.....	\$112/*\$138.00 unit per month
End Units	.....	\$130/*\$155.00 unit per month
Hangar B	.....	\$136/*\$161.00 unit per month
End Units	.....	\$168/*\$193.00 unit per month
Hangar C	.....	\$143/*\$169.00 unit per month
End Units	.....	\$173/*\$198.00 unit per month
Hangar D	.....	\$128/*\$153.00 unit per month
End Units	.....	\$152/*\$178.00 unit per month
Hangar E	.....	\$187.00 unit per month
End Units	.....	\$218.00 unit per month
Hangar F	.....	\$187.00 unit per month
End Units	.....	\$218.00 unit per month
Hangar G	.....	\$187.00 unit per month
Hangar H	.....	\$187.00 unit per month
Hangar I	.....	\$365.00 unit per month
Hangar J	.....	\$187.00 unit per month
Hangar K	.....	\$210.00 unit per month
End Unit	.....	\$314.00 unit per month
Storage	.....	\$74.00 per month
Portable Land Rent	.....	\$55.00 unit per month
T-Hangar A – D with electrical service		

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.

(b) Storage Hangars:

Hangar No. 1	....	\$1,370.00 – Sheriff Aero Squadron lease rate (is discounted to \$930.00 per month)
Hangar No. 2	....	\$1,143.00 per month
Hangar No. 3	....	\$602.00 per month
Hangar No. 4	....	\$1,024.00 per month
Hangar No. 5	....	\$1020.00 per month
Hangar No. 6	....	\$597.00 per month

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.) \$34.00 per month
- (b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) \$55.00 per month
- (c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) \$.04 per square foot per month
- (d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft \$6.00 per day
- (e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.) \$8.00 per day
- (f) Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.) \$12.00 per day
- (g) Jets – \$12.00 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 \$.75 per square foot
- (b) Office Building No. 1 \$.75 per square foot
- (c) Office Building No. 2 \$.75 per square foot
- (d) Hangar Office Space \$.341 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 \$.067 per square foot
- (b) Other areas \$.067 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

<u>Display Size</u>	<u>Display Only</u>	<u>Display & Telephone</u>
7.5” x 9.5”	\$30.00	\$50.00
7.5” x 21”	\$35.00	\$55.00
19” x 21”	\$40.00	\$60.00

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 assessed 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, 2003, the rents, fees and charges set forth in Sections 1, 2, and 3 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, 2002, 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, 2003.

SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2002-304.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-268**

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND JAMES F. ACHEY, TRUSTEE OF THE ACHEY FAMILY REVOCABLE DECLARATION OF TRUST DATED NOVEMBER 17, 1999; SHIRLEY M. LEE, TRUSTEE OF THE LEE REVOCABLE TRUST DATED FEBRUARY 2, 1999 AND DRUCILLA ACHEY, A WIDOW, ALL AS EQUAL SHARES, FOR THE ACQUISITION OF PROPERTY ALONG THE EAST SIDE OF ROSELAWN AVENUE – APN: 037-3607 & 037-5101 FOR THE ROSELAWN PARK PROJECT

WHEREAS, on April 22, 2003, the City Council of the City of Modesto approved the acquisition of real properties for the Roselawn Park Project (“Project”) to acquire land for purposes of future park development, and

WHEREAS, certain real property needs to be acquired for said Project which property is identified as of Assessor’s Parcel No: 085-0170, and which property is owned by James F. Achey, Trustee of the Achey Family Revocable Declaration of Trust dated November 17, 1999; Shirley M. Lee, Trustee of the Lee Revocable Trust dated February 2, 1999 and Drucilla Achey, a widow, all as equal shares, to the City of Modesto for property along the east side of Roselawn Avenue – APN: 037-3607 and 037-5101 for the Roselawn Park Project, and

WHEREAS, an agreement is needed for the acquisition of the needed real properties.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and James F. Achey, Trustee of the Achey Family Revocable Declaration of Trust dated November 17, 1999; Shirley M. Lee, Trustee of the Lee Revocable Trust dated February 2, 1999 and Drucilla Achey, a widow, all as equal shares, for the Roselawn Park Project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager on behalf of the City of Modesto 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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-269**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ACCEPTANCE FORMS FOR GRANT DEEDS FOR THE ACQUISITION OF TWO PROPERTIES OWNED BY JAMES F. ACHEY, TRUSTEE OF THE ACHEY FAMILY REVOCABLE DECLARATION OF TRUST DATED NOVEMBER 17, 1999; SHIRLEY M. LEE, TRUSTEE OF THE LEE REVOCABLE TRUST DATED FEBRUARY 2, 1999 AND DRUCILLA ACHEY, A WIDOW, ALL AS EQUAL SHARES, FOR ASSESSORS PARCEL NOS: 037-3607 and 037-5101 FOR THE ROSELAWN PARK 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 properties from James F. Achey, Trustee of the Achey Family Revocable Declaration of Trust dated November 17, 1999; Shirley M. Lee, Trustee of the Lee Revocable Trust dated February 2, 1999 and Drucilla Achey, a widow, all as equal shares, for Assessors Parcel Nos: 037-3607 and 037-5101 for the Roselawn Park Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign Certificates of Acceptance on behalf of the City of Modesto for the Grant Deeds for the acquisition of properties for the Roselawn Park Project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized and directed to sign any and all documents related to the purchase of real property on behalf of the City of Modesto as it is required for the acquisition of the properties for the Roselawn Park Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-270**

**A RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH STORER
TRANSIT SYSTEMS TO OPERATE THE MODESTO AREA DIAL-A-RIDE
(DAR) SERVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE
THE AGREEMENT.**

WHEREAS, the existing agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride (DAR) service expires June 27, 2003, and

WHEREAS, the City wishes to continue providing Dial-A-Ride 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 28, 2003, and

WHEREAS, two proposals were received for the contract, and

WHEREAS, Storer Transit Systems submitted the highest ranked proposal for the five-year contract, and

WHEREAS, by an agenda report to the City Council dated May 19, 2003, the Engineering and Transportation Director recommended approval of the contract with Storer Transit Systems,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby approves a five-year operations contract with Storer Transit Systems, on behalf of the City of Modesto, commencing on June 28, 2003, and terminating on June 27, 2008, at an annual cost of approximately \$1,706,101,

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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-271**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE CHATEAU
PROVENCE PHASE 2 SUBDIVISION, IN THE CARVER-BANGS SPECIFIC
PLAN AREA, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, ANDERSON HOMES, a California Corporation, is the subdivider of the Chateau Provence Phase 2 Subdivision, and

WHEREAS, ANDERSON HOMES, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$578,304.00 and \$289,152.00, respectively, and

WHEREAS, ANDERSON HOMES, has filed a warranty bond in the amount of \$57,830.40 to guarantee improvements in the Chateau Provence Phase 2 Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the Chateau Provence Phase 2 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$578,304.00 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 \$289,152.00 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 improvements in the amount of \$57,830.40 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 3rd day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Alison Barratt-Green
ALISON BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -272**

**A RESOLUTION APPROVING A FOURTH AMENDMENT TO AGREEMENT
FOR FINANCIAL MANAGEMENT SERVICES WITH L. PATRICK SAMSELL
AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID
AGREEMENT**

WHEREAS, on July 3, 2001, the City of Modesto entered into an Agreement for Financial Management Services with L. Patrick Samsell for financial management services, and

WHEREAS, on December 31, 2001, the City of Modesto entered into a First Amendment to Agreement for Financial Management Services with L. Patrick Samsell for continued financial management services, and

WHEREAS, on June 25, 2002, the City of Modesto entered into a Second Amendment to Agreement for Financial Management Services with L. Patrick Samsell for continued financial management services, and

WHEREAS, on January 7, 2003, the City of Modesto entered into a Third Amendment to Agreement for Financial Management Services with L. Patrick Samsell for continued financial management services, and

WHEREAS, the City has determined that the additional services will be needed after the expiration of the original agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fourth Amendment to Agreement for Financial Management Services with L. Patrick Samsell, is hereby approved.

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 3rd day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**.MODESTO CITY COUNCIL
RESOLUTION NO. 2003-273**

**A RESOLUTION APPROVING THE SECOND AMENDMENT TO
AGREEMENT WITH MODESTO REDEVELOPMENT ASSOCIATES, A
CALIFORNIA GENERAL PARTNERSHIP, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AMENDMENT**

WHEREAS, on or about May 13, 1968, City of Modesto, as Lessor, and Ray Houghton and Barton Bartoni, as Lessees, executed a Lease Agreement for the lease of a breezeway commonly known as Bartoni Lane (the "Breezeway"), and

WHEREAS, the City and Houghton/Bartoni executed an Amendment to the Lease Agreement, dated October 22, 1968, (Amendment) to provide that the Breezeway would remain open to the public at all times, except in order to make necessary repairs or provide maintenance thereto, and

WHEREAS, on or about January 26, 1999, Houghton/Bartoni assigned said Lease Agreement, and the Amendment thereto, to Modesto Redevelopment Associates, LESSEE, and City consented to said Assignment, and

WHEREAS, LESSEE has requested that it be allowed to close the breezeway during non-business hours, and

WHEREAS, the parties now wish to amend further the Lease Agreement to provide for the closure of the breezeway during non-business hours based on the terms and conditions set forth in this Second Amendment,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Second Amendment to Agreement with Modesto Redevelopment Associates concerning the closure of the breezeway known as Bartoni Lane during non-business hours, subject to the terms and conditions set forth in the Second Amendment to Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second 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 June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-274**

**A RESOLUTION AMENDING RESOLUTION NO. 90-350, ADOPTING THE
INCREASES OF THE STANISLAUS COUNTY PUBLIC FACILITIES FEES**

WHEREAS, the City Council of the City of Modesto adopted the Stanislaus County Public Facilities Fees for the City of Modesto on March 19, 1990 in Resolution No. 90-350, and

WHEREAS, the City of Modesto entered into a reciprocal collection agreement with Stanislaus County on March 13, 1990, and

WHEREAS, said agreement provides for the collection of Public Facility Fees within the city limits of the City of Modesto and the collection of Capital Facility Fees within the Sphere of Influence of the City of Modesto, and

WHEREAS, the Stanislaus County Board of Supervisors authorized an increase in the County Public Facility Fees on February 4, 2003, and

WHEREAS, a detailed Public Facilities Plan Update has been prepared by Stanislaus County staff dated April 5, 2003. It is attached to Stanislaus County Resolution No. 2003-140 and is incorporated herein as Exhibit A, and

WHEREAS, said study also sets forth the relationship between contemplated future development, the needed facilities, and the estimated costs of those improvements, and

WHEREAS, this report was available for public inspection and review for more than ten (10) days prior to the public hearing, and

WHEREAS, following a duly noticed public hearing held on May 6, 2003, at 5:30 p.m., in the Council Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, based upon the County report and the Stanislaus County Resolution, the City Council finds as follows:

- A. The purpose of this fee is to finance county public facilities to reduce the impact caused by future development in Stanislaus County. Such improvements include the expansion and construction of public improvements, public services and community amenities.

- B. The fees collected pursuant to this resolution shall be used to finance the public facilities identified in **Exhibit A** attached hereto and incorporated by reference.
- C. After considering the studies and analysis prepared by Stanislaus County staff, and the testimony received at this public hearing, the City Council approves and adopts said report, and incorporates such herein, and further finds that the future development within the City of Modesto will generate additional demands on County public facilities.
- D. As development occurs within the City of Modesto there will be a need for expanded, improved or newly constructed County public facilities. The Board of Supervisors have found that said facilities have been called for in, or are consistent with, the County's General Plan.
- E. The facilities called for in the County Capital Improvement Plan are consistent with the City's General Plan.
- F. The studies and the testimony establish:
- (1) That there is a reasonable relationship between the need for the public facilities designated in Exhibit A and the impacts of the types of development for which the corresponding fee is charged.
 - (2) That there is a reasonable relationship between the fee's use and the type of development for which the fee is charged.
 - (3) That there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.
 - (4) That the cost estimates set forth in Exhibit A are reasonable cost estimates for constructing these facilities, and the fees expected to be generated by future developments will not exceed the total costs of constructing the public facilities identified in Exhibit A.
- G. The Public Facilities Plan Update dated April 5, 2003 is a detailed analysis of how public services will be affected by development within Stanislaus County including the City of Modesto, the existing deficiencies, and the public facilities required to accommodate that development and those deficiencies.

H. The method of allocation of the public facilities fee to a particular development bears a fair and reasonable relationship to each development's burden on, and benefit from, the facilities to be funded by the fee.

WHEREAS, this study finds that Public Facilities Fees are necessary to mitigate impacts caused by new development within the County and that the fees are needed to finance Public Facilities and to assure that new development pays its fair share for these improvements, and

WHEREAS, the California Government Code provides that Public Facilities Fees may be enacted and imposed on development projects, and

WHEREAS, the City Council finds that the public health, safety, peace, morals, convenience, comfort, prosperity and general welfare will be promoted by the adoption of Public Facilities Fees for construction, expansion or improvement of Public Facilities, and

WHEREAS, failure to enact the County's Public Facilities Fees will subject County residents to conditions perilous to their health and/or safety.

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

1. Definitions.

- (a) "Development" shall mean the construction, alteration, addition, occupancy or use of any building or structure within Stanislaus County.
- (b) "Dwelling Unit" shall mean a structure as defined in the Uniform Building Code (UBC) as adopted by Stanislaus County.
- (c) "Residential"
 - (1) "Senior Housing" includes retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.
 - (2) "Single Family" is typically single-family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

- (3) “Multiple” includes multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominium, and multi-family residential planned unit developments. This category also applies to mobile homes.
- (d) “Industrial” means the manufacture, fabrication, reduction or destruction of any article, substance or commodity or any other treatment thereof in such a manner as to change the form or character thereof, but excluding mini-warehouses which are treated separately.
- (e) “Office”
 - (1) “Medical” means buildings and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.
 - (2) “General” is all other types of general and professional offices, including but not limited to business parks, corporate headquarters, insurance sales, and research centers, and excluding government and United States Postal Service.
- (f) “Commercial”
 - (1) “Convenience Market” is retail grocery sales, off-site sale of beer and wine, often with on-site gasoline pumps, and usually open 24 hours or extended hours.
 - (2) “Restaurants”
 - (i) “Fast Foods” are eating establishments with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken to be consumed outside the building, although some on-site seating is usually provided.
 - (ii) “High Turnover” is sit-down eating establishments where food is ordered and consumed on the premises, and customers generally stay less than one hour; frequently

belong to chains and typically serve breakfast, lunch and dinner.

(iii) “Quality” is sit-down eating establishments which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

(3) “Retail” includes a wide range of retail and service uses, both free-standing and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, garden centers or nurseries, wholesale markets, apparel stores, furniture stores, video arcades, and new car sales. Does not include the following uses which shall be considered separately: restaurants, convenience markets, banks, savings and loans, movie theaters, and other specifically defined as a separate category for streets fee purposes.

(g) “Financial”

(1) “Banks” are full service financial institutions with or without drive-up windows.

(2) “Savings and Loans” are financial institutions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given Savings and Loan is 5,000 gross square feet or more, or provides full banking services, it should be treated as a bank.

(h) “Miscellaneous”

The uses in this category are generally self-explanatory. Service station uses are uses which sell automotive fuels and possibly also provide automotive repair service, but do not have small retail shops (such as convenience markets). For fee calculation, a pump is defined as a fuel dispensing station, regardless of the number of pump machines or nozzles

provided. The number of “pumps” using this definition will be the maximum number of standard passenger cars which can be served at the fuel dispensing islands on the site at one time.

(i) “Recreational”

The uses in this category are generally self-explanatory. Golf courses do not include miniature golf uses.

(j) For purposes of fees set forth in subparagraphs 1(a) through 1(i), the following definitions shall apply:

(1) “Low Density Residential Use” shall mean a detached building designed for occupancy by one family.

(2) “Medium Density Residential Use” shall mean a mobile home or an attached building designed for occupancy by two families or two detached buildings designed for occupancy on a single lot.

(3) “Medium High Density Residential Use” shall mean one or more buildings on a single lot designed for occupancy by three or more families.

(4) “Care Home Use” shall mean structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family, or a child day care center.

(5) “Church Use” shall mean structures primarily designed as a place for public worship.

(6) “School Use” shall include those uses offering educational services and/or vocational training to students aged five years or older but excluding child care facilities.

(7) “Professional Office Use” shall mean structures designed for use in which business, clerical, or professional activities are conducted, including medical or dental offices and laboratories (excluding retail or wholesale sales and banking institutions), and

provided. The number of “pumps” using this definition will be the maximum number of standard passenger cars which can be served at the fuel dispensing islands on the site at one time.

(i) “Recreational”

The uses in this category are generally self-explanatory. Golf courses do not include miniature golf uses.

(j) For purposes of fees set forth in subparagraphs 1(a) through 1(i), the following definitions shall apply:

(1) “Low Density Residential Use” shall mean a detached building designed for occupancy by one family.

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(5) “Church Use” shall mean structures primarily designed as a place for public worship.

(6) “School Use” shall include those uses offering educational services and/or vocational training to students aged five years or older but excluding child care facilities.

(7) “Professional Office Use” shall mean structures designed for use in which business, clerical, or professional activities are conducted, including medical or dental offices and laboratories (excluding retail or wholesale sales and banking institutions), and

pharmacies (excluding manufacture and distribution of pharmaceuticals).

(8) “Commercial Use” shall mean those uses designated as permitted or conditional uses in the C-1 and C-2 Zones of Title 21 of the Stanislaus County Code.

(9) “Fast Food Restaurant Use” shall mean those restaurant structures frequently designed with drive-in or drive-through facilities with menus to accommodate fast ordering and receipt of food with no, or a limited number of, sit-down facilities.

(10) “Convenience Mart Use” shall include those structures of approximately one to five thousand square feet in size which are designed to be open for retail use between fifteen and twenty-four hours a day and which commonly sell fuel for motorized vehicles.

(11) “Industrial Use” shall mean those uses designated as permitted or conditional uses in the M, LM, and PI Zones of Title 21 of the Stanislaus County Code, excluding all those uses which are permitted in any of the other zones as set forth in Title 21 excepting mini-warehouses.

(12) “Capital Improvement” shall mean the following:

(i) Any structure or other improvement constructed or renovated by the County upon property owned by or under its control.

(ii) Any initial equipment or piece of equipment necessary to service new growth or new development.

(13) “Hospital” shall mean a structure designed for health services, both in-patient and out-patient; that includes surgical care of the sick or injured or the physically ill and/or therapeutic treatment for the mentally ill.

Included as an integral part of a hospital are laboratories, out-patient departments, training facilities, central service facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered “professional offices” if located off-site, unless a multi-site campus is

covered by a P-D Zone for hospital uses. A separate set of offices on the same site for physicians is considered “professional offices.”

2. Fee Imposed.

A Public Facilities Fee shall be charged and paid at the time of issuance of a building permit for development. The fee shall be determined by the fee schedule in effect on the date the vesting tentative map or vesting parcel map is approved, or the date a permit is issued. The fee shall not be levied upon any building permit application, deemed complete, if submitted on or before September 1, 2003.

3. Amount of County Public Facilities Fee for the City of Modesto.

(a) The fee for the County-wide development fee within Modesto shall be as specified within the County of Stanislaus County-Wide Fee Schedule for the City of Modesto, adopted on February 4, 2003, by the Stanislaus County Board of Supervisors, attached hereto as **Exhibit B** and incorporated herein by this reference.

(b) Uses included in each land use type are specified in Section 1.

Definitions.

(c) Uses not specified in Section 1. Definitions shall be charged at rates determined by the Director of Public Works, using trip generation estimates found in the most recent edition of Trip Generation Factors prepared by the Institute of Transportation Engineers (ITE) as used by Recht Hausrath during the preparation of the Public Facilities Fee Program or from other data sources acceptable to the Director. The formula used to derive the road fee portion of each category is as specified within the County Public Facility Plan Update Report, adopted by the Stanislaus County Board of Supervisors on February 4, 2003 attached hereto as Exhibit A and incorporated herein by this reference.

4. Exemptions from Fee.

(a) The Public Facilities Fees shall not be imposed on any of the following:

- (1) Any alteration or addition to a residential structure, except to the extent that additional units are created;
- (2) Any alteration or addition to a non-residential structure if the square footage is increased less than ten percent, unless the alteration or addition changes the use of the structure to a higher density category or will result in the generation of additional peak hour trip ends;
- (3) Any replacement or reconstruction of any residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor.

(b) Whenever the alteration, addition, replacement, or reconstruction is not exempt, the fee shall be imposed only on the additional units or guest rooms, change in use, or additional trips generated.

5. Payment of Other Fees Required.

(a) Notwithstanding any other provision of this resolution, every development within the incorporated area of Modesto is responsible for the payment of all other applicable fees adopted by the City.

(b) Nothing in this resolution affects the obligation of any person to pay area of benefit fees established pursuant to the City Ordinance Code so long as this fee shall not result in a duplicate fee for any development or portion thereof included in an area of benefit listed in Exhibit A.

6. Collection of Fee Reserves.

(a) The public facility fees which are adopted by this resolution shall be collected by the County of Stanislaus pursuant to a collection agreement which has been executed on the 13th day of March, 1990, between the City of Modesto and the County of Stanislaus.

7. Expenditure and Accounting for the Fees.

(a) The County of Stanislaus is responsible for expending and accounting for the fees adopted by this resolution pursuant to agreement and the requirement of California Government Code section 66000, et seq.

8. Exemption from California Environmental Quality Act (CEQA).

In addition to the other findings made by this resolution, the City Council further finds that CEQA does not apply to the adoption of this resolution. Pursuant to the provisions of sections 15061 and 15273 of the State CEQA guidelines because:

(a) The fees established by this resolution will be collected, in part, for the purposes of obtaining funds to be used for development projects and improvements which are necessary to maintain the current level of service in terms of street capacity within the County as well as the purchase of certain items of capital equipment;

(b) To a limited extent, the fees established by this resolution will be used to fund some new facilities such as traffic signals, park and ride lots, bike paths, and pedestrian foot paths in new neighborhoods outside existing service areas. However, the addition of public facilities to new neighborhoods will not take place until there has been CEQA review of the development projects which will pay for said public facilities via the public facilities fee mechanism established by the Board of Supervisors Resolution No. 89- 1724. The construction of each public facility will be subject to CEQA review. It is, therefore, reasonably certain that this resolution which established public facilities fees will not, by itself, have any possibility of causing a significant effect on the environment.

9. Subsequent Analysis of Fee.

The fee established herein is adopted and implemented by the City Council in reliance on the comprehensive studies that have been prepared by the County. When additional information is available, the City Council shall review this fee to determine that the fee amounts are reasonably related to the impacts of developments, and to consider whether the fee should be more specifically refined. The City may revise the fees to incorporate the findings and conclusions

of further studies and revisions that may be adopted by the Stanislaus County Board of Supervisors.

10. Effective Date of Public Facilities Fee.

This resolution is effective September 3, 2003.

BE IT FURTHER RESOLVED that henceforth the Stanislaus County Public Facilities Fees collected within the city limits of the City of Modesto shall be as set forth in the attached schedule of fees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

of further studies and revisions that may be adopted by the Stanislaus County Board of Supervisors.

10. Effective Date of Public Facilities Fee.

This resolution is effective September 1, 2003.

BE IT FURTHER RESOLVED that henceforth the Stanislaus County Public Facilities Fees collected within the city limits of the City of Modesto shall be as set forth in the attached schedule of fees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: CHIEF EXECUTIVE OFFICE

BOARD AGENDA# 9:25 a.m.

Urgent _____ Routine X

AGENDA DATE February 4, 2003

CEO Concurs with Recommendation YES (Signature) NO _____
(Information Attached)

4/5 Vote Required YES _____ NO (check)

SUBJECT:

PUBLIC HEARING TO CONSIDER AN INCREASE IN THE COUNTY PUBLIC FACILITIES FEE PROGRAM.

STAFF RECOMMENDATIONS:

1. AUTHORIZE AN INCREASE IN THE COUNTY PUBLIC FACILITY FEES, AS SHOWN IN ATTACHMENT A, BY RESOLUTION, AFTER FINDING THAT THERE IS A REASONABLE NEXUS BETWEEN THE IMPACT OF GROWTH ON EXISTING FACILITIES, CURRENT LEVEL OF SERVICE AND FEE LEVELS RECOMMENDED BY STAFF.
2. APPROVAL AND ADOPTION OF THE FINDINGS SET FORTH IN THIS ITEM AND AS REQUIRED BY SECTION 66001 OF THE CALIFORNIA GOVERNMENT CODE AS TO THE FEES INCLUDED IN THE MODIFICATION OF THE PUBLIC FACILITY PROGRAM ADOPTED AT THIS MEETING.

FISCAL IMPACT:

By adopting the public facility fee levels as recommended it is estimated that the county will collect approximately \$154 million in facility fee revenue over the next ten years. A preliminary Capital Improvement Plan adopted by the Board on September 17, 2002 identifies approximately \$644 million in public facility needs. A portion of these public facility needs will be a result of growth impacts over the same 10-year period.

BOARD ACTION AS FOLLOWS:

No. 2003-140

On motion of Supervisor Caruso, Seconded by Supervisor Paul

and approved by the following vote,

Ayes: Supervisors: Paul, Mayfield, Grover, Caruso, and Chairman Simon

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) _____ Approved as recommended
- 2) _____ Denied
- 3) X Approved as amended

MOTION:

APPROVED THE RECOMMENDATIONS AND ADDED THE EFFECTIVE DATE OF 4/5/03

Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

ATTACHMENT A

PUBLIC FACILITY FEE SUMMARY

All County Fees

	Large Industrial							
	Single-Family	Multi-Family	Office	Retail	Industrial (S)	Manufacturing	Mixed Use	Warehouse
<u>Animal Services *</u>	\$ 39	\$ 39	\$ 22	\$ 13	\$ 0.01	\$ 0.0019	\$ 0.0004	\$ 0.0002
<u>Behavioral Health</u>	\$ 225	\$ 225	\$ 124	\$ 74	\$ 0.05	\$ 0.0106	\$ 0.0024	\$ 0.0009
<u>Criminal Justice</u>	\$ 78	\$ 78	\$ 43	\$ 26	\$ 0.02	\$ 0.0037	\$ 0.0008	\$ 0.0003
<u>Emergency Services</u>	\$ 16	\$ 16	\$ 9	\$ 5	\$ 0.00	\$ 0.0008	\$ 0.0002	\$ 0.0001
<u>Health</u>	\$ 266	\$ 266	\$ 146	\$ 88	\$ 0.06	\$ 0.0125	\$ 0.0028	\$ 0.0010
<u>Detention</u>	\$ 844	\$ 844	\$ 464	\$ 279	\$ 0.20	\$ 0.0398	\$ 0.0089	\$ 0.0033
<u>Libraries</u>	\$ 271	\$ 271	\$ 149	\$ 90	\$ 0.06	\$ 0.0128	\$ 0.0029	\$ 0.0010
<u>Other County</u>	\$ 768	\$ 768	\$ 423	\$ 254	\$ 0.18	\$ 0.0362	\$ 0.0081	\$ 0.0030
<u>Parks</u>	\$ 882	\$ 882	\$ 485	\$ 291	\$ 0.21	\$ 0.0416	\$ 0.0093	\$ 0.0034
<u>Roads City-County</u>	\$ 2,147	\$ 1,438	\$ -	\$ 1,893	\$ 1.18	\$ 0.2360	\$ 0.2360	\$ 0.2360
<u>Roads Inter-City</u>	\$ 1,905	\$ 1,276	\$ 2,082	\$ 1,580	\$ 1.05	\$ 0.2090	\$ 0.2090	\$ 0.2090
<u>Sheriff</u>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<u>Fee Administration (2.5%)</u>	\$ 186	\$ 153	\$ 89	\$ 117	\$ 0.00	\$ 0.0151	\$ 0.0120	\$ 0.0115
Total Fee	\$ 7,628	\$ 6,256	\$ 4,045	\$ 4,809	\$ 3.02	\$ 0.6199	\$ 0.4928	\$ 0.4695
Unit of Calculation	per unit	per unit	per gross 1000 sf useable space	per gross 1,000 sf useable space	per sqft for 1st 20000 sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.

Unincorporated Fees

	Large Industrial							
	Single-Family	Multi-Family	Office	Retail	Industrial (S)	Manufacturing	Mixed Use	Warehouse
<u>Animal Services *</u>	\$ 39	\$ 39	\$ 22	\$ 13	\$ 0.01	\$ 0.0019	\$ 0.0004	\$ 0.0002
<u>Behavioral Health</u>	\$ 225	\$ 225	\$ 124	\$ 74	\$ 0.05	\$ 0.0106	\$ 0.0024	\$ 0.0009
<u>Criminal Justice</u>	\$ 78	\$ 78	\$ 43	\$ 26	\$ 0.02	\$ 0.0037	\$ 0.0008	\$ 0.0003
<u>Emergency Services</u>	\$ 16	\$ 16	\$ 9	\$ 5	\$ 0.00	\$ 0.0008	\$ 0.0002	\$ 0.0001
<u>Health</u>	\$ 266	\$ 266	\$ 146	\$ 88	\$ 0.06	\$ 0.0125	\$ 0.0028	\$ 0.0010
<u>Detention</u>	\$ 844	\$ 844	\$ 464	\$ 279	\$ 0.20	\$ 0.0398	\$ 0.0089	\$ 0.0033
<u>Libraries</u>	\$ 271	\$ 271	\$ 149	\$ 90	\$ 0.06	\$ 0.0128	\$ 0.0029	\$ 0.0010
<u>Other County</u>	\$ 768	\$ 768	\$ 423	\$ 254	\$ 0.18	\$ 0.0362	\$ 0.0081	\$ 0.0030
<u>Parks</u>	\$ 1,135	\$ 1,135	\$ 624	\$ 375	\$ 0.27	\$ 0.0535	\$ 0.0120	\$ 0.0044
<u>Roads City-County</u>	\$ 2,147	\$ 1,438	\$ -	\$ 1,893	\$ 1.18	\$ 0.2360	\$ 0.2360	\$ 0.2360
<u>Roads Inter-City</u>	\$ 1,905	\$ 1,276	\$ 2,082	\$ 1,580	\$ 1.05	\$ 0.2090	\$ 0.2090	\$ 0.2090
<u>Sheriff</u>	\$ 689	\$ 689	\$ 379	\$ 227	\$ 0.16	\$ 0.0325	\$ 0.0073	\$ 0.0027
<u>Fee Administration (2.5%)</u>	\$ 210	\$ 176	\$ 112	\$ 125	\$ 0.00	\$ 0.0162	\$ 0.0123	\$ 0.0115
Total Fee	\$ 8,593	\$ 7,221	\$ 4,576	\$ 5,127	\$ 3.25	\$ 0.6654	\$ 0.5030	\$ 0.4732
Unit of Calculation	per unit	per unit	per gross 1000 sf useable space	per gross 1,000 sf useable space	per sqft for 1st 20000 sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.

* Applicable to areas serviced by Animal Services only. Deduct this amount from non-service areas

ATTACHMENT B

COUNTY-WIDE CAPITAL FACILITIES FEES

(Fees apply to all new development county-wide)

	RESIDENTIAL				NON RESIDENTIAL							
	Single Family (1)		Multi-Family (1)		Office (2)		Retail (2)		Small Industrial (3)		Large Industrial (4)	
	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990
Inter-City Roads (5)	577	1,457	386	976	633	1,599	509	1,350	317	800	0.063	0.160
City/County Roads (6)	327	987	219	661	630	1084	289	914	189	542	0.036	0.108
Criminal Justice	102	128	66	83	0	67	0	40	0	29	0.060	0.006
Jails	1,059	1066	685	689	0	533	0	332	0	237	0.000	0.047
Libraries	349	314	226	203	0	163	0	98	0	70	0.000	0.014
Parks	131	138	85	89	0	n/a	0	n/a	0	n/a	0.000	n/a
Out-Patient Care	57	61	39	39	0	32	0	20	0	14	0.000	0.003
Public & Mental Health	112	93	77	60	0	48	0	29	0	21	0.000	0.004
Other County Facilities	144	90	93	58	0	47	0	28	0	20	0.000	0.004
Fee Administration (2.5%)	71	108	47	71	25	89	20	70	13	43	0.002	0.009
TOTAL	\$2,929	\$4,442	\$1,923	\$2,929	\$1,288	\$3,662	\$818	\$2,881	\$519	\$1,776	0.101	0.355

UNINCORPORATED AREA PUBLIC FACILITIES FEES

(Development in unincorporated areas is subject to both county-wide and unincorporated fees)

COUNTY-WIDE PUBLIC FACILITIES	RESIDENTIAL				NON RESIDENTIAL							
	Single Family (1)		Multi-Family (1)		Office (2)		Retail (2)		Small Industrial (3)		Large Industrial (4)	
	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990
Sheriff's Patrol	\$134	\$134	\$87	\$87	\$23	\$70	\$14	\$42	\$10	\$30	0.002	0.06
Fire	102	192	66	124	152	100	92	60	64	43	0.013	0.09
Other County Facilities	0	266	0	172	0	140	0	84	0	60	0.000	0.12
Fee Administration (2.5%)	6	15	4	10	4	8	3	5	2	3	0.0004	0.02
TOTAL	\$242	\$607	\$157	\$393	\$179	\$318	\$109	\$191	\$76	\$136	0.0154	0.29

- (1) Fee per dwelling unit
- (2) Fee charge per gross thousand usable square feet
- (3) This fee applied to each 1,000 square feet up to 20,000 square feet of all industrial development
- (4) This fee applies to each additional square foot of industrial space over 20,000 square feet

Adopted by the Board in 1990 and Adjusted in 1992

ATTACHMENT C

25-unit, Subdivision, Single-Family Fees (per unit) by Select Region, Sub-region, Fee Type

Jurisdiction	Per Unit Value 1999	Per Unit Fees								Fees per \$ valuation
		Planning Fees	Planning & Building Check Fees	School Fees	Infrastructure & Impact Fees				Total Fees	
					Water, Sewer, Gas SElect & Storm, Fire Water Fees	Transportation & Park Fees	In-Lieu: Quimby, Other Fees & Taxes	Capital Improvement Fees		
Sonoma County	242,933	1,207	7,337	4,125	0	5,766	0	0	18,435	0.076
San Luis Obispo	180,892	595	2,290	4,825	5,416	1,875	1,989	3,277	20,266	0.112
Monterey County	229,360	6,702	3,437	4,825	10,805	2,000	10,574	861	39,203	0.171
San Joaquin County	164,750	973	3,221	7,725	2,288	1,794	1,776	435	18,218	0.111
Butte County	142,200	464	3,306	4,825	0	2,859	0	404	11,857	0.083
Sacramento County	218,980	1,205	1,964	8,175	8,542	5,189	1,311	1,973	28,358	0.131
Los Angeles County	242,040	1,025	3,005	11,893	9,897	2,000	96	589	28,506	0.118
Orange County	136,070	784	2,939	4,825	35	15,408	0	381	23,821	0.175
San Diego County	203,800	1,253	1,848	4,825	4,148	800	0	1,015	13,888	0.068
Stanislaus County	140,000	1,400	1,425	6,000	2,316	Included in Cap. Imp. Fees	Included in Cap. Imp. Fees	2,929	15,391	0.101

Maneca	172,750	446	3,305	4,825	7,561	1,910	3,123	2,134	23,304	0.135
Merced	147,434	351	3,882	8,250	4,033	1,919	907	726	20,068	0.136
Modesto	140,994	335	1,437	9,425	3,446	0	0	14,930	29,572	0.21
Stockton	159,633	2,356	3,005	8,175	8,452	3,305	279	1,051	26,623	0.167
Tracy	156.85	2,294	4,973	4,825	2,288	6,628	0	2,696	23,704	0.151

SOURCE: CA Dept. of Housing

COMPARISON OF PUBLIC FACILITY FEES FOR SINGLE FAMILY DWELLINGS

Cities in Stanislaus County	Ceres	Hughson	Modesto	Newman	Oakdale	Patterson	Turlock	Waterford	Average	County
Single Family Dwelling	\$6,680	\$2,054	\$5,377	\$11,002	\$10,587	\$9,601	\$14,325	\$2,923	\$7,183	\$2,929

SOURCE: Cities

ORDINANCE NO. C.S. 818

AN ORDINANCE RELATING TO THE PAYMENT OF PUBLIC FACILITY FEES

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. Subdivision B of Section 23.04.010 of the Stanislaus County Code is amended to read as follows:

"B. The fee shall be determined by the fee schedule in effect on either (a) the date a building permit is issued, or (b) for vesting tentative subdivision maps and vesting tentative parcel maps only, the date the application for such vesting tentative map is complete and accepted consistent with Section 20.13.020, and consistent with Government Code sections 66474.2, and 66498.1 (b), as may be amended or repealed."

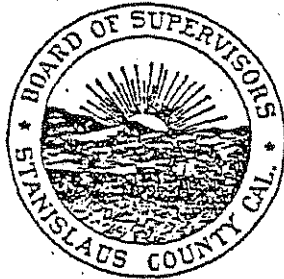
Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor Caruso, seconded by Supervisor

Paul, the foregoing resolution was passed and adopted at a

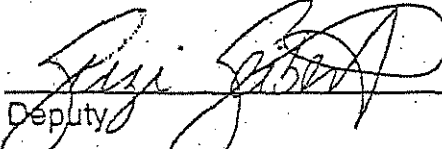
regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 11th day of February, 2003, by the following called vote:

AYES: Supervisors: Paul, Mayfield, Grover, Caruso, and Chairman Simon
NOES: Supervisors: None
ABSENT: Supervisors: None

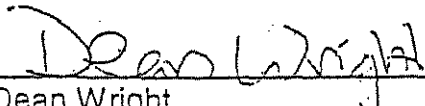


Raymond C. Simon
Chair of the Board of Supervisors of the County of Stanislaus, State of California

ATTEST:
CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By 
Deputy

APPROVED AS TO FORM:
MICHAEL H. KRAUSNICK
COUNTY COUNSEL

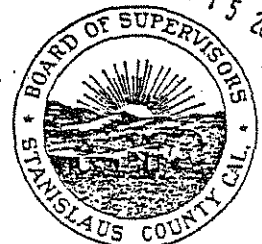
By 
Dean Wright
Deputy County Counsel

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I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

CHRISTINE FERRARO TALLMAN
Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By 



ORDINANCE NO. C.S. 824

AN ORDINANCE TO ESTABLISH GUIDELINES FOR PAYMENT OF
PUBLIC FACILITY FEES

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF
CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. For purpose of the implementation and payment of Public Facility Fees, pursuant to Section 23.04.010 of the Stanislaus County Code, as amended, the Board establishes the following guidelines so that a development project that is not vested would be subject to the fees in place prior to April 5, 2003, if the development project meets either of the following two criteria:

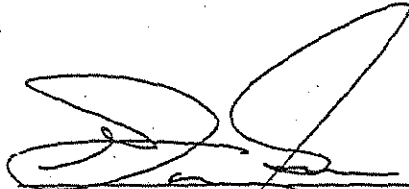
1. The development project is the subject of a written development agreement entered into and signed by the developer(s) and the County or a city within the County prior to April 5, 2003; or
2. A completed building permit application for the development project has been submitted to the County or a city within the County prior to April 5, 2003.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

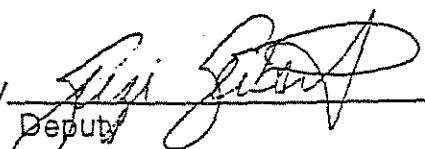
Upon motion of Supervisor Paul, seconded by Supervisor Grover, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 11th day of March, 2003 by the following called vote:

AYES: Supervisors: Paul, Mayfield, Grover, Caruso, and Chairma Simon
NOES: Supervisors: None
ABSENT: Supervisors: None




Raymond C. Simon
Chair of the Board of Supervisors of the
County of Stanislaus, State of California

ATTEST:
CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By 
Deputy

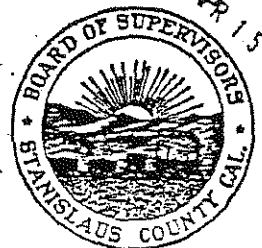
APPROVED AS TO FORM:
MICHAEL H. KRAUSNICK
COUNTY COUNSEL

By 
Dean Wright
Deputy County Counsel

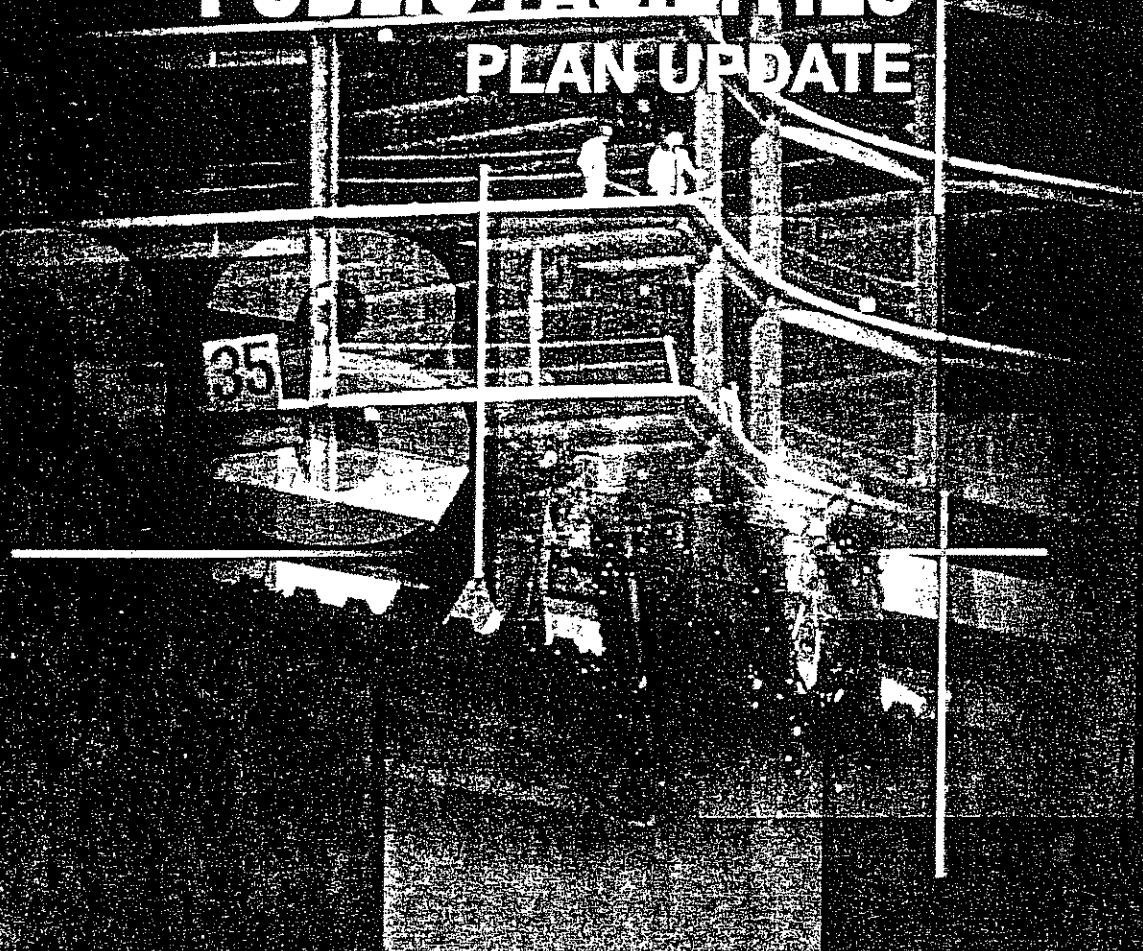
I hereby certify that the foregoing is a full,
true and correct copy of the Original entered
In the Minutes of the Board of Supervisors.

CHRISTINE FERRARO TALLMAN
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By 



STANISLAUS COUNTY PUBLIC FACILITIES PLAN UPDATE



BOARD ADOPTED FEBRUARY 4, 2003

FINAL REPORT

Fees effective April 5, 2003

EXECUTIVE SUMMARY

PUBLIC FACILITIES FEE REVISION 2003

Reason for Fees

Stanislaus is one of the fastest growing counties in the country. As the county's population and employment grows, so does the demand for county facilities. Each new resident relies on local government for various types of services. The county's infrastructure must be maintained and extended to meet the service demand of population and employment growth.

Today, local governments' primary source of discretionary revenue comes from sales tax, vehicle license fee revenue and property tax. These funds are used primarily to cover the operating and maintenance cost of county departments. As an immediate response to severe reductions in federal and state assistance, cities and counties throughout California cut back services, deferred maintenance, slashed capital investment, and developed cost recovery programs such as growth impact and user fees.

As a result of wide-spread imposition of growth impact fees, the State Legislature passed AB 1600, which spells out some ground rules for imposition and on-going administration of impact fees. The law, which became effective in January 1989, requires local governments to document the nexus between the amount of new development and the facilities that are required. The law restricts how local governments may impose and use impact fees. But it has also made local governments less vulnerable to litigation and has given developers a more predictable environment in which to build.

In general, the fee cannot be more than the cost of the public facility needed to accommodate growth and fee revenues can only be used for their intended purposes.

Public Facility Fee: History in Stanislaus County

Stanislaus County's Public Fee Program (PFF) was developed in 1989. The Board of Supervisors retained the services of Recht Hausrath & Associates to develop a comprehensive public facility fee program for Stanislaus County. The County's PFF Program has served as a model for many other jurisdictions throughout the State of California. The county's development fees were set in 1990 and were based on a detailed analysis of the impact of growth on public facilities. In 1992 the Board reduced the fees substantially as a result of a severe economic recession and the desire to stimulate economic development.

The bulk of development fees come from residential sources, with non-residential development contributing less than 15% of total fees collected. In addition, almost 50% of public facility fees collected are earmarked for roads.

The County has reciprocal fee collection agreements with all nine cities that include County development provisions within city spheres of influence. The reciprocal fee collection agreements provide for cities to collect fees on behalf of the County that apply to County-provided services within city limits. For example, the County provides library and detention-related Sheriff and Probation services to all residents. Impact fees are collected by the city when development occurs within their incorporated area to cover both City and County provided services, and the County portion is transferred to the County.

Fee Program Categories Defined

There are twelve program categories defined in the 2003-facility fee revision. This number is up from the original nine categories defined in the 1990 original program.

In preparing this revision, the jails category was absorbed by a new category called Detention. The Detention category includes both sheriff detention services as well as probational institutions – including juvenile hall.

Animal services and Emergency Services, have been added to the program and the Fire category deleted due to the changing programming - from direct fire protection to more general emergency services. The 1990 study grouped "in-patient" services and "public health" services as categories; however, over the past decade, Stanislaus County has restructured how health-related services are delivered. In-patient services performed by the Behavioral Health and Recovery Services department are categorized separately in this analysis. Public Health services are now a function of the County's Health Services Agency. This study reflects the current service delivery structure more accurately.

Road fees are still determined through two categorical channels: inter-city and city-county categories, consistent with the original fee schedule. Because road costs are calculated differently than other facility fee categories (by tripends), a separate detailed calculation methodology is used.

Fee Calculation

The fee calculation in most categories (all except road fee calculations) consist of several basic computations which establish the primary elements of the equation. Population, employment trends, current facilities levels and occupancy rates are data sets that can be associated with per capita costs to arrive at adjusted growth-based per capita costs. The final step in fee calculation at that point is to compare with the appropriate unit type (i.e. residential, office/retail, or industrial) to compute the actual fee component.

The county will undertake annual and longer-term reviews of its facilities fee program. The annual review will verify that the assumptions on which the fees are based remain generally applicable; it will also involve adjustments for inflation

based upon a cost of construction index published in the Engineering News Review (ENR). The annual adjustment will include a report that will identify the amount of public facility fee collected for each program area, each public improvement project for which fees were expended, and the construction schedule and budget for each project.

The County is committed to continuous improvement in the development and permitting process. As other funding sources are secured - overall services will be improved countywide. Streamline permitting, a countywide GIS, development triage, rapid workflow processes are all efforts employed by the county to facilitate the approval process for development.

The county will continue to work with the development community to expedite and make more certain the entitlement and permitting schedule in order to reduce the cost impact to the applicant.

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BACKGROUND/HISTORY

Introduction: Reason for Fees

Stanislaus is one of the fastest growing counties in the country. As the county's population and employment grows, so does the demand for county facilities. Each new resident relies on local government for various types of services. If public facilities and road capacity is not built to accommodate growth in population and employment, local service deficiencies develop and hinder basic service levels as well as economic development efforts. The county's infrastructure must be maintained and extended to meet the service demand of population and employment growth.

This report documents the cost of public facilities required to maintain current levels of service based upon current per capita (2002 dollars) investments.

Local Governments Financing

Local governments' ability to raise revenue to pay for public services was restricted in 1978 with the passage of Proposition 13. Prior to 1978, local elected officials had the authority to raise property taxes to fund the service needs of the jurisdiction in which they served. After the passage of Proposition 13, base property tax increases are limited to a maximum 2% annually. Also, in 1992, the State reduced the County's share of the revenue from property tax from 25% to 11% of total local property tax collected.

Today, local governments' primary source of discretionary revenue comes from sales tax, vehicle license fee revenue and property tax. These funds are used to cover the operating and maintenance cost of county departments. Other events during the past ten years, such as difficulty passing bond initiatives and severe reductions in federal and state assistance, have undercut the financial capacity of local governments to build infrastructure. As an immediate response to this funding crisis, cities and counties throughout California cut back services, deferred maintenance, slashed capital investment, and developed cost recovery programs such as impact and user fees.

Legislative Authority: Public facilities financing in California

As a result of wide-spread imposition of growth impact fees, the State Legislature passed AB 1600, which spells out some ground rules for imposition and on-going administration of impact fees. The law, which became effective in January 1989, requires local governments to document the nexus between the amount of new development and the facilities that are required. The law restricts how local governments may impose and use impact fees. But it has also made local governments less vulnerable to litigation and has given developers a more predictable environment in which to build.

The Act, contained in California Government Code Section 66000 et seq., requires local governments to make the following findings when adopting an impact fee:

1. Identify the purpose of the fee;

2. Identify the use of fee revenues;
3. Determine a reasonable relationship between the fee's use and the type of development paying the fee;
4. Determine a reasonable relationship between the need for the fee and the type of development paying the fee; and
5. Determine a reasonable relationship between the amount of the fee and the cost of the facility attributable to development paying the fee.

In general, the fee cannot be more than the cost of the public facility needed to accommodate growth and fee revenues can only be used for their intended purposes. The Act also has specific accounting and reporting requirements.

The principal of "nexus" was established by the *Nollan vs. the California State Coastal Commission*, 483 U.S. 825, 107 S. Ct. 3141 (1987). Nexus requires that the fee amount mitigate only those impacts new development creates. For example, impact fees can not be used to fund operational and maintenance cost or to increase existing service standards.

Policies governing fee development state that, prior to levying a new fee or approving a change or increase in an existing fee, a local agency shall hold at least one public hearing at which oral or written presentations can be made. Notice of the hearing and data supporting an adjustment in a fee must be circulated 14 days prior to the adoption of the fee.

Jurisdictional Comparisons

There is a high degree of variation regarding both type and amount of fees charged. Many California cities and counties charge a variety of fees, including planning fees, building permit fees, hook-up fees, utility fees and municipal or countywide public facility fees. Fees vary significantly by region and jurisdiction. Attachment D provides a comparison of some growth impact fees collected by other California local governments in 2002. This chart clearly demonstrates the differences in approaches taken by local jurisdictions: some counties (Sonoma, Monterey, Stanislaus counties) collect fees to cover most or all county services, whereas some counties collect impact fees for specific impacts only (libraries, law enforcement, roads, etc.). The application of those fees to specific types of development also varies between jurisdiction, dependant on the nexus established independently in those counties. For example, the State Department of Housing¹ estimates the total (average) fee for a single family unit in Sonoma County is \$18,400, \$39,203 in Monterey County, and \$15,391 in Stanislaus County.

PFF History in Stanislaus County

Stanislaus County's Public Fee Program (PFF) was developed in 1989. The Board of Supervisors retained the services of Recht Hausrath & Associates to develop a comprehensive public facility fee program for Stanislaus County. The

¹ For additional information regarding facility fee schedule comparisons, see: http://www.hcd.ca.gov/hpd/pay2play/pay_to_play.html

County's PFF Program has served as a model for many other jurisdictions throughout the State of California. The program requires the cooperation of all nine cities in the county and has led to mutual benefit agreements with each of the cities. The county's development fees were set in 1990 and were based on a detailed analysis of the impact of growth on public facilities.

In 1992 the Board reduced the fees substantially as a result of a severe economic recession and the desire to stimulate economic development. Unfortunately, during the same period the State managed their fiscal crisis by significantly altering the formula that dictated the sharing of property tax revenue. Stanislaus County Government's share of the property tax revenue base was reduced by over 50%, drastically impacting local revenue. Many public facilities, including county roads, did not receive adequate funding to maintain the needed capacity to serve a rapidly growing population. The impact of the economic recession remained in Stanislaus County through 1996.

The bulk of development fees come from residential sources, with non-residential development contributing less than 15% of total fees collected. In addition, almost 50% of public facility fees collected are earmarked for roads, leaving only a portion of the capital improvement projects that are required covered by development fees.

Since the adoption of the County's Public Facility Fee Program, approximately \$66 million has been collected which has funded less than 25% of the Capital Improvement Plan (CIP). Major capital project funding sources such as State and Federal grant dollars, public contributions, general discretionary revenue, bond financing and project specific assessments have funded more than 75% of total capital projects.

Finally, the County has reciprocal fee collection agreements with all nine cities that include County development provisions within city spheres of influence. The reciprocal fee collection agreements provide for cities to collect fees on behalf of the County that apply to County-provided services within city limits. For example, the County provides library and detention-related Sheriff and Probation services to all residents. Impact fees are collected by the city when development occurs within their incorporated area to cover both City and County provided services, and the County portion is transferred to the County.

Capital Improvement Plan Overview: Relationship to PFF Schedule

Stanislaus County's preliminary Capital Improvement Plan (CIP) was adopted by the Board of Supervisors on September 17, 2002 and covers a ten-year period. The CIP addresses new development as well as maintenance and renovation of existing facilities. There are currently over \$644 million dollars in project development costs identified in the CIP (See table). During the same ten-year period, it is estimated that the county will collect approximately \$ 154.9 million in public facility fee dollars.

	All Capital Impr. Plan Projects
Animal Services	\$ 8,950,000
Behavioral Health and Recovery Services	21,590,000
General Capital Projects	94,064,207
Clerk-Recorder	100,000
Community Services Agency	13,451,400
Ag Related Projects	25,280,000
Health Services Agency	147,634,850
Library	41,890,000
Parks and Recreation	25,739,049
Comm. Development Block Grant Programs	78,746,000
Probation	17,790,370
Public Works	117,319,630
Sheriff	52,120,000
Total	\$ 644,675,506

Process and Development Model:

Local capital facilities fees are usually determined using an average cost methodology, e.g. historical or projected capital costs are divided by the current or projected future population to yield a per capita or per household cost. The design of a development fee program follows a five step process: (1) Selecting a time period (2) Projecting growth and type of new development; (3) Identifying the facilities needed to accommodate new development; (4) Estimating their cost and (5) Selecting an appropriate and equitable means to allocate cost among new development.

- (1) Time Period - The determination of development fees begins with the selection of the time period over which growth and development will be measured. The county's capital improvements plan and the official population and economic forecasts are central to the impact fee study. Therefore, it is convenient to have the time period aligned with these documents. The county's recently adopted preliminary CIP and growth forecasts are projected to the year 2012. This data is therefore used for fee determination purposes with the exception of roads.

Growth impacts on roads are forecasted over a longer, thirty-year horizon to account for the cumulative impact of growth in road and infrastructure improvements. Individually, new development impacts on roads represent small incremental impacts; however, a large capital investment is required to mitigate these accumulated impacts over a longer period. Many of the projects to mitigate the impacts (road widening; traffic signal improvements; curb, gutter and sidewalk improvements; etc.) must be completed together as a single project, and thus a longer project timeframe must be considered to fund these larger projects.

- (2) Growth Forecast: The requirements for new facilities are based on population and employment growth projected within Stanislaus County. The revised population estimate is 554,995 and the employment

estimate is 216,638 through 2012. Services for non-residential categories are weighted at 50% of residential growth (population) based on the assumption that an employee requirement for public services is one-half that of a resident.

- (3) Facilities to Accommodate Growth - The determination of the quantity of new facilities needed to serve the forecasted population growth requires the adoption of standards. These standards establish the level of service (L.O.S.) for existing and future county infrastructure. Standards are often stated in terms of a department's staff per capita or amount of facilities per capita (e.g., acres of parkland, square feet of development space). The amount of new facilities that new development must fund is calculated according to the projected population and employment growth.

In most cases, the county can adopt its own standards that reduce, maintain, or increase the present level of service being provided to the existing population. In some cases, however, the standards are mandated by state or federal regulations (e.g., minimum number of jail cells with single bunks). New development cannot be held accountable for higher standards than the current population provides for itself; thus, if present facilities are not up to a chosen standard, the county may establish a higher standard only if the county funds the necessary improvements to its existing facilities.

The standards and type of facilities required to maintain current levels of service were established through a two-part process. Initial standards were recommended during extensive consultations with each county department. A policy group, composed of elected policy-makers, then reviewed these standards with key county staff. The final determination is the responsibility of the County Board of Supervisors.

- (4) Estimating Cost of Facilities - The projected need for new facilities was developed by considering the current level of service for facilities; estimating the new facilities requirements at the same level of service, and applying a current (2002) average cost of developing the new facilities. Growth-induced facility needs are estimated by calculating the existing square footage occupied by a given department, and dividing by that department's current service population to establish an existing "square footage per capita." The projected population growth over the ten-year planning horizon is multiplied by the existing square footage per capita to ascertain the extended space needs to support future growth. The resulting additional square footage is multiplied by an average cost per square foot (in 2002 dollars) to obtain an estimated cost impact; and the result is divided by the new growth to determine the "cost per person" in residential and employment growth. The total growth impact cost is also compared to the County's Preliminary Capital Improvement Plan for the same ten-year horizon to identify those projects that will be eligible for partial funding using Public Facilities Fees.

The average per square foot cost of new facilities is based on average cost of similar construction types as reported in by R.S. Means Company in Construction Cost Data, 2002, adjusted regionally for Modesto, California, and by adding County project administrative costs.

Costs of equipment, including vehicles, required to support new growth is determined using the same methodology; that is, applying the current number of vehicles (for example) per person to the projected growth in population to estimate the future number of vehicles needed. The current average cost of vehicles is multiplied by the number of vehicles to obtain a total cost. The total cost is then divided by the number of new residents and employees to obtain a cost per person of the growth impact.

- (5) Allocating Total Facility Costs - There are four steps required to formulate an equitable allocation of the capital costs for county infrastructure: (a) the cost of remedying existing deficiencies must be separated from the financing of facilities to accommodate new growth; (b) costs for county-wide services (e.g., criminal justice system) must be distinguished from county services provided only in the unincorporated areas (e.g., sheriff's patrol); (c) costs for new facilities must be distributed among different types of land use development based on assumed density levels (e.g., residential and non-residential); and finally (d) a higher level of service (new standard) must be funded from non-impact fee revenue.

FEE METHODOLOGY - APPLIED

The public facility fee nexus is derived from several key variables, including population growth trends, employment growth trends, an understanding/inventory of current (status quo) facilities (both buildings and vehicles), clearly defined program categories, and use descriptions.

In this section we will explain each of these key variable points in detail – including how the analysis was completed and incorporated. Finally, we will discuss the actual fee calculation as it applies to the overarching facility fee model.

Population Trend Analysis

The population trend analysis was developed utilizing historical population figures for each city and the unincorporated area of Stanislaus County from the year 1990 through the year 2002, as compiled by the California Department of Finance. The benchmark for the estimates is the Census 2000 Summary File 1.

The year-to-year change in population was measured both in absolute numbers and as a percentage from 1990 to 2002. A growth factor was determined by taking the percentage of average growth from the years 1990 through 2002, and applying this average percentage to arrive at an estimate for the years 2003

through 2012. This was completed for all nine cities in Stanislaus County, as well as for the unincorporated area of the County. (See table below.)

Population Counts					
	1990	2000	2002	2010	2012
Ceres	26,413	34,609	35,650	43,572	45,814
Hughson	3,259	3,980	4,230	5,015	5,233
Modesto	164,746	188,856	198,600	224,428	231,393
Newman	4,158	7,093	7,550	11,283	12,475
Oakdale	11,978	15,503	16,200	20,826	22,176
Patterson	8,626	11,606	13,050	17,224	18,461
Riverbank	8,591	15,826	17,000	26,689	29,875
Turlock	42,224	55,810	59,400	74,606	78,980
Waterford	4,771	6,924	7,125	9,375	10,041
Unincorporated	95,756	106,790	110,700	121,977	124,971
Totals	370,522	446,997	469,505	554,995	579,419

Employment Trend Analysis

The growth in the number of individuals employed in each of the nine cities through the year 2012 was developed utilizing an average of employment data (jobs not labor force) from 1998 through October 2002. The data source was the California Employment Development Department.

The growth in the number of individuals employed in the unincorporated area was extrapolated by taking the difference between the total number of individuals employed in the nine cities for years 1998 - October 2000 and those individuals employed in all of Stanislaus County

For each of the cities and the unincorporated area, an average change in employment was measured both in absolute numbers and by percentage change. The average percentage change in employment for each city and the unincorporated area of the County for the years 1998 through 2002 was applied to the year 2002 to arrive at an estimate for 2003, and continuing through 2012.

Having accounted for employment growth over the schedule window, the final step involves weighting the different types of development, as measured by employment, according to new development's demand for new facilities. This weighting requires an assumption with regard to the relative demand for county services from the population while at work versus while at home. Our fee study assumes that on average a resident requires twice the amount of services, as does an employee. This assumption is used in the analysis here. Therefore, each new employee (projected) is weighted by one half the amount of each new resident. (See calculation explained below)

The total cost of new facilities will be distributed across these weighted measures of growth countywide and in the unincorporated areas. Two distributions provide the basis for fees per residential dwelling unit and square feet of non-residential development during the next ten years.

Employment Calculations												
	Since 2002	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
		People Employed										
Ceres	2.07%	13,490	13,769	14,054	14,345	14,642	14,945	15,255	15,570	15,893	16,222	16,557
Hughson	2.05%	1,670	1,704	1,739	1,775	1,811	1,848	1,886	1,925	1,964	2,004	2,045
Modesto	2.07%	89,020	90,863	92,744	94,663	96,623	98,623	100,664	102,748	104,875	107,046	109,262
Newman	2.08%	1,900	1,940	1,980	2,021	2,063	2,106	2,150	2,195	2,240	2,287	2,334
Oakdale	2.05%	6,160	6,286	6,415	6,547	6,681	6,818	6,958	7,100	7,246	7,394	7,546
Patterson	2.07%	4,200	4,287	4,376	4,466	4,559	4,653	4,749	4,848	4,948	5,050	5,155
Riverbank	2.04%	4,010	4,092	4,175	4,260	4,347	4,436	4,527	4,619	4,713	4,809	4,907
Turlock	2.07%	22,780	23,252	23,733	24,224	24,726	25,237	25,760	26,293	26,837	27,393	27,960
Waterford	2.07%	2,040	2,082	2,125	2,169	2,214	2,260	2,307	2,355	2,403	2,453	2,504
Unincorporated	2.19%	47,730	48,775	49,843	50,935	52,051	53,190	54,355	55,546	56,762	58,005	59,276
Total County		193,000	197,050	201,184	205,406	209,716	214,117	218,610	223,198	227,882	232,664	237,542

Existing Facilities Inventory: The Identification Process

The inventory of County-occupied facilities includes a total of 2,126,969 square feet of office, shop, warehouse, clinic, laboratory, detention and other space as of November 2002. This total represents 1,936,972 square feet of County-owned space, plus 189,997 square feet of space in leased buildings. The square footage is an approximate total of gross square feet within the owned facilities, plus rentable square feet within the leased facilities. This composite inventory combines County Public Works building maintenance records, Risk Management property insurance records and Purchasing property lease records.

For the purposes of calculating growth impacts, certain County-owned facilities are not included in the Public Facilities Fees level of service. These include space occupied by:

- Children and Families First Commission;
- Space occupied by the Modesto Police Department at 3709 Oakdale Road;
- Grand Jury;
- Guardian Ad Litem;
- Law Library;
- Parks & Recreation parks buildings; and
- Superior Courts

The remaining 1,928,583 square feet of County occupied space is provided by department category (Criminal Justice, Libraries, etc.) The space occupied by Probation department offices is separately identified from the Juvenile Hall space

due to the difference in cost of construction of these types of facilities – a necessary consideration in the projection of future facilities costs associated with growth impacts. The Sheriff’s space inventory is also reported separately for operational functions (administration, detectives, patrol, records, etc.) and for detention functions, since sheriff operations mainly support unincorporated County areas, whereas detention/institutional functions (jails) support the entire County. (See Appendix A for inventory detail.)

The inventory of existing County-occupied facilities includes building space (square footage) only. Land area is excluded from the existing facilities inventory except in the calculation of growth impacts for the Parks and Recreation functions. This methodology allows for the forecasting of future building space needs based on the population increase. The projected building space is multiplied by a cost per square foot, and an allowance to include land acquisition (at 20% of the construction cost) and other project costs for design and project management, etc. is added.

Fee Program Categories Defined

There are twelve program categories defined in the 2003-facility fee revision. This number is up from the original nine categories defined in the 1990 original program.

In preparing this revision, the jails category was absorbed by a new category called Detention. The Detention category includes both sheriff detention services as well as probational institutions – including juvenile hall.

Animal services and Emergency Services, have been added to the program and the Fire category deleted due to the changing programming - from direct fire protection to more general emergency services. The 1990 study grouped “in-patient” services and “public health” services as categories; however, over the past decade, Stanislaus County has restructured how health-related services are delivered. In-patient services performed by the Behavioral Health and Recovery Services department are categorized separately in this analysis. Public Health services are now a function of the County’s Health Services Agency. This study reflects the current service delivery structure more accurately.

Road fees are still determined through two categorical channels: inter-city and city-county categories, consistent with the original fee schedule. Because road costs are calculated differently than other facility fee categories (by tripends), a separate detailed calculation methodology is used. (See calculation detail – next section)

Facilities Categories 1990		Facilities Categories 2003	
Countywide	Unincorporated	Countywide	Unincorporated
Criminal Justice	Criminal Justice	Animal Services	Animal Services
Jails	Jails	Behavioral Health	Behavioral Health
Libraries	Libraries	Criminal Justice	Criminal Justice
Out Patient Care	Out Patient Care	Emergency Services	Emergency Services
Other County	Other County	Health	Health
Public/Mental Health	Public/Mental Health	Detention	Detention
Parks	Parks	Libraries	Libraries

Roads City-County	Roads City-County	Other County	Other County
Roads Inter-City	Roads Inter-City	Parks	Parks
	Sheriff	Roads City-County	Roads City-County
	Fire	Roads Inter-City	Roads Inter-City
			Sheriff

Note: Sheriff services remain an unincorporated area fee only.

Use Descriptions

The fee allocation distributes the cost of new facilities that will serve growth among five land use categories (i.e. single-family residential, multi-family residential, office, retail, and small/large industrial). These categories are consistent with the 1990 fee analysis with the exception of large industrial. Here, the category has been better defined to address lower employee densities and to reflect more accurately the industry standards.

Occupancy

Development fees are based upon an average number of residents per dwelling unit and average number of employees per 1,000 square feet for non-residential projects.²

For example - single family residential dwellings average 3.03 people per dwelling unit. Office space averages 3.33 employees per 1,000 square feet. Retail business employs 2.0 employees per 1,000 feet of retail space and small industrial employs 1.429 employees per 1,000 square feet – on average. Large industrial has been further defined by three sub categories: manufacturing, mixed use/distribution, and warehousing. Based upon current manufacturing industry data, .286 employees are allocated per 1,000 square feet for large manufacturing industrial, .064 employees per 1,000 square feet for large mixed use/distribution and .023 employees per 1,000 square feet for large warehousing occupants.

Occupancy:	Ratio (C/ per 1K Sqft)	1 Empl. SQFT	Ratio/1 sqft
Single-Family Residential	3.03		
Multi-Family Residential	3.03		
Office	3.333	300	0.003333
Retail	2.000	500	0.002000
Industrial (S)	1.429	700	0.001429
Industrial (L):			
Manufacturing	0.286	3500	0.000286
Mixed Use / Distribution	0.064	15615	0.000064
Warehouse	0.023	42839	0.000023

Fee Calculation

The fee calculation in most categories (all except road fee calculations) consist of several basic computations which establish the primary elements of the equation. Having discussed the assumptions above (population and employment trends, current facilities levels and occupancy rates) these data sets can then be associated with per capita costs to arrive at adjusted growth-based per capita

² Occupancy assumptions are based upon the 1990 fee schedule. An adjustment has been made to the large industrial category to better depict current industry standards.

costs. The final step in fee calculation at that point is to compare with the appropriate unit type (i.e. residential, office/retail, or industrial) to compute the actual fee component.

Calculation: All non-road categories

Step One: Defining Cost Assumptions

Total (existing) square footage of building space (a)
Existing population plus 50% of employed base (b)

(a) / (b) = (c) square footage per capita
(note: with Animal Services two additional process steps apply discounting City of Turlock and Oakdale populations in per capita calculation. These cities provide their own animal control services.)

Step Two: Applying Projected Growth

Population projection plus 50% employment projection (trend analysis) (d)
Existing population plus 50% of employed base (b)

(d - b) = (e) population and 50% employment growth identified

Step Three: New Growth Facility Cost

Facility construction cost per square foot
(Based upon RS Means, 23rd Annual Edition - see attachment E for complete categorical building inventory) (f)
New growth facility cost is calculated by finding for the product of square footage per capita, population growth, and facilities construction cost per square foot.

(c)(e)(f) = (g) new growth facility cost

Step Four: Current Cost of Vehicles per Capita

Current cost of vehicles per capita is based upon a separate calculation for each fee category. Based upon current vehicle inventory (number and replacement value) and current population (including 50% of employed base) the average cost per capita is derived. (h) (See attachment F for categorical summary of vehicle inventory)

Population growth (e)

(h)(e) = (j) New growth vehicle cost

Step Five: Total New Growth Cost

New growth facility cost (g)
New growth vehicle cost (j)

(g) + (j) = (k) Total new growth cost

Step Six: Adjusted Cost Per Capita

Total new growth cost (k)
Population growth (e)

$$(k) / (e) = (l) \text{ Adjusted cost per capita}$$

Step Seven: Unit Type Calculation

Adjusted cost per capita (l)

Residents per unit or Employees per sq./ft. (m)

$$(l)(m) = (n) \text{ Unit type calculation (fee base)}$$

Fee Calculation: Roads

Traffic impact fees are based on trips generated (tripends) and thus differentiated even more finely among land uses. The total number of peak hour trips are projected by using the forecast of the five types of land use (i.e. single family, multi-family, office, retail, and industrial). Different types of development generate different volumes of traffic. The demand for future traffic improvements will be determined by the amount of driving or "trips" generated by each type of future development growth. Specifically, each type of development generates an average number of peak hour trips, and this peak hour tripend generation factor may be used to allocate the cost of traffic mitigation to new growth in each of the five types of land use categories.

As is common in traffic analysis, tripend, rather than trip, is used as the actual measurement of traffic. Tripend is defined as either a departure or a destination; in other words each trip has two tripends. Tripend generation rates are typically described in terms of peak hour trips (PHT) per dwelling unit for residential land use, and per acre or per thousand square feet for retail, office and industrial uses.

The peak hour trip estimates for five categories of land use in this report are based on the foundational 1990 analysis – including the *Caltrans' Trip Ends Generation Research Counts*, analysis from StanCOG, and the Department of Public Works. The following table presents the peak hour trip factor estimates applied to the forecasted growth for each of the five land use categories.

Land Use Category	Peak Hour Tripends per Unit
Single Family dwelling unit	1.00
Multi-Family dwelling unit	0.67
Retail per thousand square feet	5.14
Office per thousand square feet	2.00
High Density Industrial per thousand square feet	1.00
Low Density Industrial per thousand square feet	0.20

The estimated peak hour trips are used to calculate the total peak hour trips over the next twenty years generated from the forecasted growth³. Because of the

³ Forecasted land use growth countywide and unincorporated areas has been drawn directly from the original 1990 facility study. Land use growth is based on forecasted employment converted to building space using 300 office, 500 retail, and 700 high-density industrial, 2,100 low-density industrial square feet per employee.

different fee categories, peak hour trips are forecast for countywide growth and, separately, for growth in unincorporated areas. The inter-city fee, is calculated by allocating the total local share (total cost minus the expected Caltrans assistance) of inter-city road projects among these tripends. The city/county fee is based on the total peak hour trips generated over the next twenty years except within the Modesto sphere of influence, the Salida Planned Development, and the cities of Ceres, Turlock, Newman, and Waterford (accounting for their respective sphere fees).

The projected peak hour tripends have been forecasted from countywide land use patterns and based on research conducted by the Institute of Traffic Engineers (ITE).

Tripends generated by each type of land use are not equivalent. There are significant differences between the tripends generated by residential, retail, and office/industrial land uses that may be factored into the final calculation of tripends generated over the next twenty years. Without some adjustments, imposing the same cost per trip on retail as the cost for commute trips may appear inequitable. Some adjustments to non-residential land uses are calculated here to demonstrate the options available.

For example, retail trips (44 percent of all tripends), particularly those for convenience stores and fast food restaurants, are shorter than average and often interrupted (stop-on-the-way) or diverted (a few blocks out-of-the-way) trips. These types of tripends are intermediate tripends and should be subtracted from the total unadjusted tripend total.

A second adjustment is necessary to account for shorter trips for retail shopping than a typical commute to work. These adjustment factors are not subtracted from the unadjusted tripends as are the interrupted trips because the tripends still occur. However, the shorter trips reduce the amount of additional road capacity that must be built to accommodate new development. Therefore, the adjustments are made directly to the fees a specific type of land would otherwise pay.

A third adjustment involves the county's policy that allocates the cost of home to work (and work to home) and home to shop (and shop to home) trips towards residential development. While economic logic may justify attributing the cause of a trip to a resident rather than the shopping mall or office building, there exists no practical method of quantifying the effect. Therefore, the application of a "causality factor" must become a policy decision. Consistent with the 1990 fee analysis – we are using an 80% home to shop (and shop to home) trip cost and 60% home to work (and work to home) trip cost to residential development. These causality factors are also reflected in the fee schedules shown in tables B and C at the back of this document.)

A major adjustment in the 2003 fee schedule is the inclusion of the previously omitted State road projects. By recalculating for these projects the tripend and fee calculation is as follows:

Step One: State road projects identified (cost estimates) (a)
County road projects identified (cost estimates) (b)

(a) + (b) = total road projects (cost estimates) (c)

Step Two: Total road projects (c)
Total tripends (all categories) (d)

(b) / (d) = cost per tripend (e)

Step Three: Cost per tripend (e)
Peak hour tripend (f)
Diverted trip factor (g)
Causality adjustment factor (h)

(e)(f)(g)(h) = road fee calculation (l)

The per tripend rate varies by land use category as well as by benefit type (inter-city or city/county).

FEE SCHEDULES BY CATEGORY

Each of the twelve fee categories use the calculation strategy outlined above. In several instances (Library and Parks) an additional step has been added to the calculation process to account for category specific elements – i.e. books at the libraries and regional vs. neighborhood park lands in Parks.

Following the established rationale – cost assumptions per capita (status quo), new growth costs per capita, and unit type (residential, office/retail, industrial) will determine the categorical fee adjustment. (For overall fee summary see attachment A at the back of this document.)

Animal Services

The single family residential unit fee for animal services (countywide and unincorporated) is **\$39.26** – based upon the per capita fee of **\$12.96** dollars and the single family residential ratio of 3.03 persons per household. This assessment is not levied within the cities of Turlock and Oakdale due to existing city provided services. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capita fee is **\$6.48** dollars.

Cost Assumptions:

Buildings:	
Total Square footage (existing)	26,540
Existing population	566,005
Less: Turlock population	67,200
Less: Oakdale population	18,583
Service area population	480,222
Square footage per capita	0.06
Projected population (7/1/2012)	698,193
Less: Turlock population growth	92,960
Less: Oakdale population growth	25,949
Service area projected population	579,284
Population growth	99,062
Facilities construction cost/sqft	\$ 222.00
New Growth Facility Cost	\$ 1,215,395

Vehicles:	
Current cost of vehicle/capita	\$ 0.69
Population growth	99,062
New Growth Vehicle Cost	\$ 68,257

Total New Growth Cost	\$ 1,283,653
divided by population growth	99,062
Cost per capita	\$ 12.96
Cost per capita	\$ 12.96
x reduction factor	\$ 1.00
subtotal	\$ 12.96
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 12.96

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 12.96	\$ 39.26
Multi-Family Residential	1.00	3.03	\$ 12.96	\$ 39.26

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 6.48	\$ 21.60
Retail	0.50	2.00	\$ 6.48	\$ 12.96
Industrial (S)	0.50	1.43	\$ 6.48	\$ 9.26
Large Industrial				
Manufacturing	0.50	0.286	\$ 6.48	\$ 1.85
Mixed Use / Distribution	0.50	0.064	\$ 6.48	\$ 0.41
Warehouse	0.50	0.023	\$ 6.48	\$ 0.15

Behavioral Health

The single family residential unit fee for Behavioral Health (countywide and unincorporated) is \$224.62 – based upon the per capita fee of \$74.13 dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$37.07 dollars.

Cost Assumptions:

Facilities:

Total BHRS sqft (existing)	202,154
- Less 1501 Claus Rd., Bldgs C & D (inpatient calculated separately)	-27,916
Adjusted sqft	174,238
Existing population	566,005
Existing Level of service	0.31
Projected population (7/1/2012)	698,193
Population growth	132,188
Addnl sqft required to support growth	40,692
Cost/sqft	\$ 217.90
Total Facilities Cost of new sqft to support growth (excl inpatient)	\$ 8,866,864

Inpatient Facilities:

Total BHRS In-patient beds (existing)	67.00
Existing population	566,005
Existing Level of Service (1 bed for every _____ of population)	8447.84
Sqft required per bed	150.00
Cost per sqft (hospital)	\$ 300.00
Cost per bed	\$ 45,000
Population growth	132,188
Existing Level of Service (1 bed per _____ of population)	8447.84
Projected number of additional beds required	15.65
x cost per bed	\$ 45,000
Cost of additional inpatient facilities	\$ 704,138

Vehicles:

Current cost of vehicle/capita	\$ 1.73
Population growth	132,188
New Growth Vehicle Cost	\$ 228,406.98

Fee Calculations

Outpatient facilities cost	\$ 8,866,864.32
Inpatient facilities cost	\$ 704,138.08
Vehicle cost	\$ 228,406.98
Total All Facilities costs	\$ 9,799,409.38
Population growth	\$ 132,187.62
Total cost per capita	\$ 74.13
x reduction factor	\$ 1.00
subtotal	\$ 74.13
x CPI adjustment (not applicable to 2002 calculations)	\$ 1.00
Adjusted cost per capita	\$ 74.13

Behavioral Health continued:

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
<u>Single-Family Residential</u>	1.00	3.03	\$ 74.13	\$ 224.62
<u>Multi-Family Residential</u>	1.00	3.03	\$ 74.13	\$ 224.62

Type	% Share	Employee/1k sqft	per capita cost	Fee
<u>Office</u>	0.50	3.33	\$ 37.07	\$ 123.55
<u>Retail</u>	0.50	2.00	\$ 37.07	\$ 74.13
<u>Industrial (S)</u>	0.50	1.43	\$ 37.07	\$ 52.95
Large Industrial				
<u>Manufacturing</u>	0.50	0.286	\$ 37.07	\$ 10.59
<u>Mixed Use / Distribution</u>	0.50	0.064	\$ 37.07	\$ 2.37
<u>Warehouse</u>	0.50	0.023	\$ 37.07	\$ 0.87

Criminal Justice

The single family residential unit fee for Criminal Justice (countywide and unincorporated) is \$77.76 – based upon the per capita fee of \$25.66 dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$12.83 dollars.

Cost Assumptions:

Buildings:	
Total Square footage (existing)	72,605
Existing population	566,005
Square footage per capita	0.13

Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 188.32
New Growth Facility Cost	\$ 3,193,298

Vehicles:	
Current cost of vehicle/capita	\$ 1.51
Population growth	132,188
New Growth Vehicle Cost	\$ 198,980

Total New Growth Cost	\$ 3,392,278
divided by population growth	132,188
Cost per capita	\$ 25.66
Cost per capita	\$ 25.66
x reduction factor	1.00
subtotal	\$ 25.66
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 25.66

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 25.66	\$ 77.76
Multi-Family Residential	1.00	3.03	\$ 25.66	\$ 77.76

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 12.83	\$ 42.77
Retail	0.50	2.00	\$ 12.83	\$ 25.66
Industrial (S)	0.50	1.43	\$ 12.83	\$ 18.33
Large Industrial				
Manufacturing	0.50	0.286	\$ 12.83	\$ 3.67
Mixed Use / Distribution	0.50	0.064	\$ 12.83	\$ 0.82
Warehouse	0.50	0.023	\$ 12.83	\$ 0.30

Emergency Services

The single family residential unit fee for Emergency Services (countywide and unincorporated) is **\$16.44** – based upon the per capita fee of **\$5.43** dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is **\$2.71** dollars.

Cost Assumptions:

Buildings	
Total Square footage (existing)	12,000
Existing population	566,005
Square footage per capita	0.02

Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 249.95
New Growth Facility Cost	\$ 700,492

Vehicles	
Current cost of vehicle/capita	\$ 0.13
Population growth	132,188
New Growth Vehicle Cost	\$ 16,815

Total New Growth Cost	\$ 717,307
divided by population growth	132,188
Cost per capita	\$ 5.43
Cost per capita	\$ 5.43
x reduction factor	\$ 1.00
subtotal	\$ 5.43
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 5.43

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 5.43	\$ 16.44
Multi-Family Residential	1.00	3.03	\$ 5.43	\$ 16.44

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 2.71	\$ 9.04
Retail	0.50	2.00	\$ 2.71	\$ 5.43
Industrial (S)	0.50	1.43	\$ 2.71	\$ 3.88
Large Industrial				
Manufacturing	0.50	0.286	\$ 2.71	\$ 0.78
Mixed Use / Distribution	0.50	0.064	\$ 2.71	\$ 0.17
Warehouse	0.50	0.023	\$ 2.71	\$ 0.06

Health

The single family residential unit fee for Health (Health Services Agency) (countywide and unincorporated) is **\$265.83** – based upon the per capita fee of **\$87.73** dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is **\$43.87** dollars.

Cost Assumptions:

Buildings	
Total Square footage (existing)	225,845
Existing population	566,005
Square footage per capita	0.40
Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 217.90
New Growth Facility Cost	\$ 11,493,113
Vehicles	
Current cost of vehicle/capita	\$ 0.79
Population growth	132,188
New Growth Vehicle Cost	\$ 104,161
Total New Growth Cost	\$ 11,597,274
divided by population growth	132,188
Cost per capita	\$ 87.73
Cost per capita	\$ 87.73
x reduction factor	\$ 1.00
subtotal	\$ 87.73
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 87.73

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 87.73	\$ 265.83
Multi-Family Residential	1.00	3.03	\$ 87.73	\$ 265.83

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 43.87	\$ 146.22
Retail	0.50	2.00	\$ 43.87	\$ 87.73
Industrial (S)	0.50	1.43	\$ 43.87	\$ 62.67
Large Industrial				
Manufacturing	0.50	0.286	\$ 43.87	\$ 12.53
Mixed Use / Distribution	0.50	0.064	\$ 43.87	\$ 2.81
Warehouse	0.50	0.023	\$ 43.87	\$ 1.02

Detention

The single family residential unit fee for Detention (countywide and unincorporated) is \$844.03 – based upon the per capita fee of \$278.56 dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$139.28 dollars.

Cost Assumptions:

Buildings:

Total Square footage (existing)	491,424
Existing population	566,005
Square footage per capita	0.87

Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 319.17
New Growth Facility Cost	\$ 36,630,825

Vehicles:

Current cost of vehicle/capita	\$ 1.45
Population growth	132,188
New Growth Vehicle Cost	\$ 191,040

Total New Growth Cost	\$ 36,821,864
divided by population growth	132,188
Cost per capita	\$ 278.56

Cost per capita	\$ 278.56
x reduction factor	\$ 1.00
subtotal	\$ 278.56
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 278.56

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 278.56	\$ 844.03
Multi-Family Residential	1.00	3.03	\$ 278.56	\$ 844.03

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 139.28	\$ 464.26
Retail	0.50	2.00	\$ 139.28	\$ 278.56
Industrial (S)	0.50	1.43	\$ 139.28	\$ 198.97
Large Industrial				
Manufacturing	0.50	0.286	\$ 139.28	\$ 39.79
Mixed Use / Distribution	0.50	0.064	\$ 139.28	\$ 8.92
Warehouse	0.50	0.023	\$ 139.28	\$ 3.25

Libraries

The single family residential unit fee for Library Services (countywide and unincorporated) is \$271.23 – based upon the per capita fee of \$89.51 dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$44.76 dollars.

Cost Assumptions:

Buildings:	
Total Square footage (existing)	177,000
Existing population	566,005
Square footage per capita	0.31
Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 185.06
New Growth Facility Cost	\$ 7,649,738

Collection:	
Total Collection (existing)	686,000
Existing population	566,005
Books per capita	1.21
Projected population (7/1/2012)	698,193
Population growth	132,188
Cost per unit	\$ 26.00
New Growth Facility Cost	\$ 4,165,508

Vehicles:	
Current cost of vehicle/capita	\$ 0.13
Population growth	132,188
New Growth Vehicle Cost	\$ 17,516

Total New Growth Cost	\$ 11,832,762
divided by population growth	132,188
Cost per capita	\$ 89.51
Cost per capita	\$ 89.51
x reduction factor	\$ 1.00
subtotal	\$ 89.51
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 89.51

Unit type calculations				
Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 89.51	\$ 271.23
Multi-Family Residential	1.00	3.03	\$ 89.51	\$ 271.23
Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 44.76	\$ 149.19
Retail	0.50	2.00	\$ 44.76	\$ 89.51
Industrial (S)	0.50	1.43	\$ 44.76	\$ 63.94
Large Industrial				
Manufacturing	0.50	0.286	\$ 44.76	\$ 12.79
Mixed Use / Distribution	0.50	0.064	\$ 44.76	\$ 2.87
Warehouse	0.50	0.023	\$ 44.76	\$ 1.04

Other County Facilities

The single family residential unit fee for Other County Facilities (countywide) is \$768.31 – based upon the per capita fee of \$253.57 dollars and the single family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$126.78 dollars. This fee category includes an expanded group of county services including the following:

Agriculture Commissioners Office	Aging and Veterans Services
Assessor	Auditor-Controller
Board of Supervisors	Chief Executive Office (all divisions)
Clerk-Recorder/Elections	Cooperative Extension
County Council	Community Services Agency
Department of Employment and Training	Environmental Resources
Child Support Services	Planning
Public Works Administration/Engineering	Strategic Business Technology (SBT)
SBT – Telecommunications	Treasurer-Tax Collector

Cost Assumptions:

Buildings:	
Total Square footage (existing)	740,057
Existing population	566,005
Square footage per capita	1.31

Projected population (7/1/2012)	698,193
Population growth	132,188
Facilities construction cost/sqft	\$ 188.32
New Growth Facility Cost	\$ 32,549,030

Vehicles:	
Current cost of vehicle/capita	\$ 7.33
Population growth	132,188
New Growth Vehicle Cost	\$ 969,445

Total New Growth Cost	\$ 33,518,476
divided by population growth	132,188
Cost per capita	\$ 253.57
Cost per capita	\$ 253.57
x reduction factor	\$ 1.00
subtotal	\$ 253.57
x CCI adjustment	\$ 1.00
Adjusted cost per capita	\$ 253.57

Other County Facilities Continued

<i>Unit type calculations</i>				
Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
<u>Single-Family Residential</u>	1.00	3.03	\$ 253.57	\$ 768.31
<u>Multi-Family Residential</u>	1.00	3.03	\$ 253.57	\$ 768.31

Type	% Share	Employee/1k sqft	per capita cost	Fee
<u>Office</u>	0.50	3.33	\$ 126.78	\$ 422.61
<u>Retail</u>	0.50	2.00	\$ 126.78	\$ 253.57
<u>Industrial (S)</u>	0.50	1.43	\$ 126.78	\$ 181.12
<u>Large Industrial</u>				
<u>Manufacturing</u>	0.50	0.286	\$ 126.78	\$ 36.22
<u>Mixed Use / Distribution</u>	0.50	0.064	\$ 126.78	\$ 8.12
<u>Warehouse</u>	0.50	0.023	\$ 126.78	\$ 2.96

Parks

The single family residential unit fee for Parks has two cost variables based upon neighborhood parks (unincorporated county) at \$1135.00 – with a per capita fee of \$374.59 dollars and total county (countywide) fee of \$882.00 – with a per capita fee of \$291.09 based upon the single family residential ratio of 3.03 persons per household. The higher unincorporated fee includes both neighborhood (unincorporated) parklands as well as the regional (all county) facilities. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$145.54 dollars (countywide) and \$187.30 dollars (unincorporated).

Cost Assumptions:

Neighborhood Parks (Unincorporated County)	
Existing neighborhood park acreage	51.09
Existing population (unincorporated area)	130,655
Total acreage per capita	0.0003910
<hr/>	
Projected population unincorporated (7/1/2012)	154,609
Population growth	23,954
Acres needed to accommodate new growth	9.37
Cost of acquisition per acre	\$ 60,000
Acquisition cost for new growth	\$ 562,004
Cost of development per acre	\$ 150,000
Development cost for new growth	\$ 1,405,009
Cost of equipment per acre	\$ 3,550
Equipment cost for new growth	\$ 33,252
Total growth cost for neighborhood parks	\$ 2,000,265
Population growth	23,954
Per capita growth cost	\$ 83.50
<hr/>	
Developed Regional Parks (Total County)	
Existing Developed Regional Park acreage	889.00
Existing population	566,005
Total acreage per capita	0.00157
Projected population (7/1/2012)	698,193
Population growth	132,188
Acres needed to accommodate new growth	207.62
Cost of acquisition per acre	\$ 15,000
Acquisition cost for new growth	\$ 3,114,322
Cost of development per acre	\$ 75,000
Development cost for new growth	\$ 15,571,611
Cost of equipment per acre	\$ 3,550
Equipment cost for new growth	\$ 737,056
Total growth cost for neighborhood parks	\$ 19,422,989
Population growth	132,188
Per capita growth cost	\$ 146.94
<hr/>	
Undeveloped Regional Parks (Total County)	
Existing undeveloped Regional Park acreage	16,106.00
Existing population	566,005
Total acreage per capita	0.0285
Projected population (7/1/2012)	698,193
Population growth	132,188
Acres needed to accommodate new growth	3,761.48
Cost of acquisition per acre	\$ 5,000
Acquisition cost for new growth	\$ 18,807,376
Population growth	132,188
Per capita growth cost	\$ 142.28
<hr/>	
Vehicles (Total County)	
Current cost of vehicle/capita	\$ 1.87
Population growth	\$ 132,187.62
New Growth Vehicle Cost	\$ 247,791.21
<hr/>	
Total New Growth Costs	
Developed Regional Park per capita	\$ 146.94
Undeveloped Regional Park per capita	\$ 142.28
Vehicles per capita	\$ 1.87
Total County cost per capita	\$ 291.09
<hr/>	
Neighborhood Parks per capita	\$ 83.50
Total Unincorporated cost per capita	\$ 374.59

Parks continued:

Unit type calculations (Total County)

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 291.09	\$ 881.99
Multi-Family Residential	1.00	3.03	\$ 291.09	\$ 881.99

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 145.54	\$ 485.15
Retail	0.50	2.00	\$ 145.54	\$ 291.09
Industrial (S)	0.50	1.43	\$ 145.54	\$ 207.92
Large Industrial				
Manufacturing	0.50	0.286	\$ 145.54	\$ 41.58
Mixed Use / Distribution	0.50	0.064	\$ 145.54	\$ 9.32
Warehouse	0.50	0.023	\$ 145.54	\$ 3.40

Unit type calculations (Unincorporated)

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 374.59	\$ 1,135.01
Multi-Family Residential	1.00	3.03	\$ 374.59	\$ 1,135.01

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.33	\$ 187.30	\$ 624.32
Retail	0.50	2.00	\$ 187.30	\$ 374.59
Industrial (S)	0.50	1.43	\$ 187.30	\$ 267.57
Large Industrial				
Manufacturing	0.50	0.286	\$ 187.30	\$ 53.51
Mixed Use / Distribution	0.50	0.064	\$ 187.30	\$ 11.99
Warehouse	0.50	0.023	\$ 187.30	\$ 4.37

Roads – City/County

The single family residential unit fee for City/County Roads (countywide and unincorporated) is **\$2147.00** – based upon total State and County project costs, total tripends and the per capita trip ends total of \$1,403.

CITY - COUNTY - WITH STATE PROJECTS

State Road Projects	70,340,900
County Projects	<u>40,346,974</u>
Total	110,687,874

$$110,687,874 / 78,880 = 1,403 \quad \text{per Tripend}$$

<u>Land Use Category</u>	<u>Fee Calculation</u>	<u>Fee</u>
Single-Family Unit	1,403 x 1 x 1 x 1.53	2,147
Multi-Family Unit	1,403 x .67 x 1 x 1.53	1,438
Office	1,403 x 2 x 1 x .84	2,357
Retail	1,403 x 5.14 x .75 x .35	1,893
Industrial (S)	1,403 x 1 x 1 x .84	1,179
Industrial (L)	1,403 x .2 x 1 x .84	236

- See attachment G for City/County project list summary.

Roads – Inter-City

The single family residential unit fee for Inter-City Roads (countywide and unincorporated) is **\$1905.00** – this is based upon total cost of State and County projects, total inter-city tripends, and per capita tripends of \$1,245.

INTER-CITY - WITH STATE PROJECTS

State Road Projects	55,305,800.00
County Projects	<u>294,248,210.00</u>
Total	349,554,010.00

$$349,554,010 / 280,693 = 1,245 \quad \text{per Tripend}$$

<u>Land Use Category</u>	<u>Fee Calculation</u>	<u>Fee</u>
Single-Family Unit	1,245 x 1 x 1 x 1.53	1,905
Multi-Family Unit	1,245 x .67 x 1 x 1.53	1,276
Office	1,245 x 2 x 1 x .84	2,082
Retail	1,245 x 5.14 x .75 x .35	1,680
Industrial (S)	1,245 x 1 x 1 x .84	1,046
Industrial (L)	1,245 x .2 x 1 x .84	209

- See attachment H for Inter-City project list summary.

Sheriff

The single-family residential unit fee for Sheriff Services (unincorporated areas only) is \$688.65 – based upon the per capita fee of \$227.28 dollars and the single-family residential ratio of 3.03 persons per household. The per capita fee is multiplied by the type of land use density (see second table). The non-residential per capital fee is \$113.64 dollars. The Sheriff category is the only program area that does not provide countywide service coverage.

Cost Assumptions:

Buildings:	
Total Square footage (existing)	114,896
Existing population (unincorporated area)	130,655
Square footage per capita	0.88

Projected population unincorporated (7/1/2012)	154,609
Population growth	23,954
Facilities construction cost/sqft	\$ 249.95
New Growth Facility Cost	\$ 5,265,120

Vehicles:	
Current cost of vehicle/capita	\$ 7.48
Population growth	23,954
New Growth Vehicle Cost	\$ 179,103

Total New Growth Cost	\$ 5,444,224
divided by population growth	23,954
Cost per capita	\$ 227.28
Cost per capita	\$ 227.28
x reduction factor	1.00
subtotal	\$ 227.28
x CCI adjustment	1.00
Adjusted cost per capita	\$ 227.28

Unit type calculations

Unit Type	Residents/unit	Residents/unit	per capita cost	Fee
Single-Family Residential	1.00	3.03	\$ 227.28	\$ 688.65
Multi-Family Residential	1.00	3.03	\$ 227.28	\$ 688.65

Type	% Share	Employee/1k sqft	per capita cost	Fee
Office	0.50	3.3333	\$ 113.64	\$ 378.80
Retail	0.50	2.0000	\$ 113.64	\$ 227.28
Industrial (S)	0.50	1.4286	\$ 113.64	\$ 162.34
Large Industrial				
Manufacturing	0.50	0.286	\$ 113.64	\$ 32.47
Mixed Use / Distribution	0.50	0.064	\$ 113.64	\$ 7.28
Warehouse	0.50	0.023	\$ 113.64	\$ 2.65

Fee/Program Administration

A small part of the cost of supplying the facilities to accommodate development consists of the documentation, administration and implementation expenses of the fee program. An estimate of 2.5% has been applied to the total fee consistent with the original fee schedule developed in 1990. The actual expense incurred will be monitored and compared with this estimate; the fee will be adjusted as necessary to insure that excess funds are not collected.

In addition, the county will undertake annual and longer-term reviews of its facilities fee program. The annual review will verify that the assumptions on which the fees are based remain generally applicable; it will also involve adjustments for inflation based upon a cost of construction index published in the Engineering News Review (ENR). The annual adjustment will include a report that will identify the amount of public facility fee collected for each program area, each public improvement project for which fees were expended, and the construction schedule and budget for each project.

CONCLUSIONS/SUMMARY

In preparing this report, staff has found adequate and significant non-residential uses (agricultural, retail, commercial, and industrial), for all service categories identified in the fee schedule. Examples include:

- Urgent care and emergency response services from the Health Services Agency and Emergency Services;
- Downed animal removal from the Animal Services Department;
- A safer community and working environment from Detention and Criminal Justice Services; and
- Workplace wellness programming from Behavioral Health based services.

These uses evidence a reasonable relationship between the need and use for the fees and the fee amounts for non-residential development.

The existing public facility fee structure does not fully fund the cost of growth impacts on public facilities. The existing fee level in today's dollars is approximately 33% less than the level adopted by the Board in 1990 as a result of the Board's adjustment in 1992 and no subsequent inflationary modifications. Since 1990 the population has grown by 26% and the number of newly constructed housing units has grown by over 26,000. During the same period the cost of the median priced home has increased by 29% from \$134,000 in 1990 to approximately \$189,000 in 2002. In addition, the number of building permits issued has increased by 50% while the County's public facility fee level has remained considerably less than in many other jurisdictions.

Several core objectives remain central to this fee structure, they are:

- ◆ Countywide fees should apply to all new development including development within the nine cities and non-residential development.
- ◆ Public Facility Fees should be set at a level that fully funds the impact of growth in order to avoid a reduction in services.
- ◆ Other funding sources should be sought and used when possible to increase the level of services provided by the county, including the county road system.

The County is committed to continuous improvement in the development and permitting process. As other funding sources are secured - overall services will be improved countywide. Streamline permitting, a countywide GIS, development triage, rapid workflow processes are all efforts employed by the county to facilitate the approval process for development.

The county will continue to work with the development community to expedite and make more certain the entitlement and permitting schedule in order to reduce the cost impact to the applicant. Consolidating fee schedules to simplify administration will also be used to help reduce time for permitting and to reduce cost.

ATTACHMENT A.1

PUBLIC FACILITY FEE SUMMARY

All County Fees										
	Single-Family	Multi-Family	Office	Retail	Industrial (\$)	Manufacturing	Large Industrial		Warehouse	
Animal Services*	\$ 39	\$ 39	\$ 0.02	\$ 0.01	\$ 0.01	\$ 0.019	\$ 0.0019	\$ 0.0004	\$ 0.0002	
Behavioral Health	\$ 225	\$ 225	\$ 0.12	\$ 0.07	\$ 0.05	\$ 0.0106	\$ 0.0024	\$ 0.0009	\$ 0.0009	
Criminal Justice	\$ 78	\$ 78	\$ 0.04	\$ 0.03	\$ 0.02	\$ 0.0037	\$ 0.0008	\$ 0.0003	\$ 0.0003	
Emergency Services	\$ 16	\$ 16	\$ 0.01	\$ 0.01	\$ 0.00	\$ 0.0008	\$ 0.0002	\$ 0.0001	\$ 0.0001	
Health	\$ 266	\$ 266	\$ 0.15	\$ 0.09	\$ 0.06	\$ 0.0125	\$ 0.0028	\$ 0.0010	\$ 0.0010	
Detention	\$ 844	\$ 844	\$ 0.46	\$ 0.28	\$ 0.20	\$ 0.0398	\$ 0.0089	\$ 0.0033	\$ 0.0033	
Libraries	\$ 271	\$ 271	\$ 0.15	\$ 0.09	\$ 0.06	\$ 0.0128	\$ 0.0029	\$ 0.0010	\$ 0.0010	
Other County	\$ 768	\$ 768	\$ 0.42	\$ 0.25	\$ 0.18	\$ 0.0362	\$ 0.0081	\$ 0.0030	\$ 0.0030	
Parks	\$ 882	\$ 882	\$ 0.49	\$ 0.29	\$ 0.21	\$ 0.0415	\$ 0.0093	\$ 0.0034	\$ 0.0034	
Roads City-County	\$ 2,147	\$ 1,438	\$ -	\$ 1.89	\$ 1.18	\$ 0.2360	\$ 0.2360	\$ 0.2360	\$ 0.2360	
Roads Inter-City	\$ 1,905	\$ 1,276	\$ 2.08	\$ 1.68	\$ 1.05	\$ 0.2090	\$ 0.2090	\$ 0.2090	\$ 0.2090	
Sheriff	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Fee Administration (2.5%)	\$ 185	\$ 153	\$ 0.10	\$ 0.12	\$ 0.00	\$ 0.0151	\$ 0.0120	\$ 0.0115	\$ 0.0115	
Total Fee	\$ 7,526	\$ 6,256	\$ 4.05	\$ 4.81	\$ 3.02	\$ 0.6199	\$ 0.4628	\$ 0.4685	\$ 0.4685	
Unit of Calculation	per unit	per unit	per sqft for useable space	per sqft for 1st useable space	per sqft for 1st 20000 sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.	

Unincorporated Fees										
	Single-Family	Multi-Family	Office	Retail	Industrial (\$)	Manufacturing	Large Industrial		Warehouse	
Animal Services*	\$ 39	\$ 39	\$ 0.02	\$ 0.01	\$ 0.01	\$ 0.019	\$ 0.0019	\$ 0.0004	\$ 0.0002	
Behavioral Health	\$ 225	\$ 225	\$ 0.12	\$ 0.07	\$ 0.05	\$ 0.0106	\$ 0.0024	\$ 0.0009	\$ 0.0009	
Criminal Justice	\$ 78	\$ 78	\$ 0.04	\$ 0.03	\$ 0.02	\$ 0.0037	\$ 0.0008	\$ 0.0003	\$ 0.0003	
Emergency Services	\$ 16	\$ 16	\$ 0.01	\$ 0.01	\$ 0.00	\$ 0.0008	\$ 0.0002	\$ 0.0001	\$ 0.0001	
Health	\$ 266	\$ 266	\$ 0.15	\$ 0.09	\$ 0.06	\$ 0.0125	\$ 0.0028	\$ 0.0010	\$ 0.0010	
Detention	\$ 844	\$ 844	\$ 0.46	\$ 0.28	\$ 0.20	\$ 0.0398	\$ 0.0089	\$ 0.0033	\$ 0.0033	
Libraries	\$ 271	\$ 271	\$ 0.15	\$ 0.09	\$ 0.06	\$ 0.0128	\$ 0.0029	\$ 0.0010	\$ 0.0010	
Other County	\$ 768	\$ 768	\$ 0.42	\$ 0.25	\$ 0.18	\$ 0.0362	\$ 0.0081	\$ 0.0030	\$ 0.0030	
Parks	\$ 1,135	\$ 1,135	\$ 0.62	\$ 0.37	\$ 0.27	\$ 0.0535	\$ 0.0120	\$ 0.0044	\$ 0.0044	
Roads City-County	\$ 2,147	\$ 1,438	\$ -	\$ 1.89	\$ 1.18	\$ 0.2360	\$ 0.2360	\$ 0.2360	\$ 0.2360	
Roads Inter-City	\$ 1,905	\$ 1,276	\$ 2.08	\$ 1.68	\$ 1.05	\$ 0.2090	\$ 0.2090	\$ 0.2090	\$ 0.2090	
Sheriff	\$ 689	\$ 689	\$ 0.38	\$ 0.23	\$ 0.16	\$ 0.0325	\$ 0.0073	\$ 0.0027	\$ 0.0027	
Fee Administration (2.5%)	\$ 210	\$ 176	\$ 0.11	\$ 0.13	\$ 0.00	\$ 0.0162	\$ 0.0123	\$ 0.0115	\$ 0.0115	
Total Fee	\$ 8,593	\$ 7,221	\$ 4.58	\$ 5.13	\$ 3.25	\$ 0.6654	\$ 0.5030	\$ 0.4732	\$ 0.4732	
Unit of Calculation	per unit	per unit	per sqft for useable space	per sqft for 1st useable space	per sqft for 1st 20000 sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.	each addnl sqft.	

* Applicable to areas serviced by Animal Services only. Deduct this amount from non-service areas

The complete fee schedule can be obtained from the Stanislaus County Public Works or Planning and Community Development departments.

Public Works: 209.525.6550
 Planning and Community Development: 209.525.6330

COUNTY-WIDE CAPITAL FACILITIES FEES													
(Fees apply to all new development county-wide)													
RESIDENTIAL							NON RESIDENTIAL						
Single Family (1)		Multi-Family (1)		Office (2)		Retail (2)		Small Industrial (3)		Large Industrial (4)			
1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990
Inter-City Roads (5)	577	1,457	386	976	633	1,599	509	1,350	317	800	0.063	0.160	
City/County Roads (6)	327	987	219	661	630	1084	289	914	189	542	0.036	0.108	
Criminal Justice	102	128	66	83	0	67	0	40	0	29	0.060	0.006	
Jails	1,059	1066	685	689	0	533	0	332	0	237	0.000	0.047	
Libraries	349	314	226	203	0	163	0	98	0	70	0.000	0.014	
Parks	131	138	85	89	0	n/a	0	n/a	0	n/a	0.000	n/a	
Out-Patient Care	57	61	39	39	0	32	0	20	0	14	0.000	0.003	
Public & Mental Health	112	93	77	60	0	48	0	29	0	21	0.000	0.004	
Other County Facilities	144	90	93	58	0	47	0	28	0	20	0.000	0.004	
Fee Administration (2.5%)	71	108	47	71	25	89	20	70	13	43	0.002	0.009	
TOTAL	\$2,929	\$4,442	\$1,923	\$2,929	\$1,288	\$3,662	\$818	\$2,881	\$519	\$1,776	0.101	0.355	
UNINCORPORATED AREA PUBLIC FACILITIES FEES													
(Development in unincorporated areas is subject to both county-wide and unincorporated fees)													
COUNTY-WIDE	RESIDENTIAL							NON RESIDENTIAL					
PUBLIC FACILITIES	Single Family (1)		Multi-Family (1)		Office (2)		Retail (2)		Small Industrial (3)		Large Industrial (4)		
	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	1992	1990	
Sheriff's Patrol	\$134	\$134	\$87	\$87	\$23	\$70	\$14	\$42	\$10	\$30	0.002	0.06	
Fire	102	192	66	124	152	100	92	60	64	43	0.013	0.09	
Other County Facilities	0	266	0	172	0	140	0	84	0	60	0.000	0.12	
Fee Administration (2.5%)	6	15	4	10	4	8	3	5	2	3	0.0004	0.02	
TOTAL	\$242	\$607	\$157	\$393	\$179	\$318	\$109	\$191	\$76	\$136	0.0154	0.29	
(1) Fee per dwelling unit													
(2) Fee charge per gross thousand usable square feet													
(3) This fee applied to each 1,000 square feet up to 20,000 square feet of all industrial development													
(4) This fee applies to each additional square foot of industrial space over 20,000 square feet													
Adopted by the Board in 1990 and Adjusted in 1992													

ATTACHMENT A.2

Attachment B

REVISED TABLE VI - 12
CITY/COUNTY ROADS FEE SCHEDULE¹

<u>Land Use</u>	<u>Peak Hour Trip Ends</u>	<u>Diverted Trip Factor</u>	<u>Trip Length/ Causality Adjustment Factor²</u>	<u>Adjusted Fee³</u>
RESIDENTIAL - Per Dwelling Unit				
Single family	1.00	1.00	1.53	2,147
Multi-family	0.67	1.00	1.53	1,438
Senior Housing	0.40	1.00	1.53	859
NON-RESIDENTIAL - per 1,000 Sq. Ft. (unless otherwise noted)				
Office				
General Office/Office Park	2.00	1.00	0.84	2,357
Medical Offices	3.60	1.00	0.84	4,243
Industrial				
Industrial (<20,000 sq. ft.)	1.00	1.00	0.84	1,179
-each 1,000 sq. ft. over 20,000 sq. ft.	0.33	1.00	0.84	389
Commercial				
Convenience Market	71.10	0.55	0.35	19,203
Small Retail (<50,000 sq. ft.)	12.36	0.75	0.35	4,552
Medium Retail (50-100,000 sq. ft.)	7.51	0.75	0.35	2,766
Shopping Center (100-300,000 sq. ft.)	4.17	0.75	0.35	1,536
Shopping Mall (>300,000 sq. ft.)	3.44	0.75	0.35	1,267
Restaurants				
Fast Food	43.30	0.60	0.35	12,757
High Turnover	19.93	0.75	0.35	7,340
Sit Down	7.25	1.00	0.35	3,560
Financial				
Bank	24.00	0.60	0.35	7,071
Savings & Loan	6.10	0.90	0.35	2,696
Manual Car Wash (per stall)	4.80	0.75	0.35	1,768
Church	0.64	1.00	0.35	314
Day Care Center	12.30	0.30	0.35	1,812
Hospital	1.58	1.00	0.35	776
Mini-Warehouse	0.26	1.00	0.35	128
Nursing Home	0.27	1.00	0.35	133
Gas Station-per pump	3.63	0.50	0.35	891
Motel/Hotel-per room	0.64	1.00	0.35	314
Golf Course (per acre)	0.39	1.00	1.00	547
Movie Theater	6.14	1.00	1.00	8,614
Racquet Club (per court)	3.94	1.00	1.00	5,528
Tennis Courts (per court)	3.43	1.00	1.00	4,812

1 The city/county road fee applies to new development throughout the county except within the urban spheres of Modesto, Salida, Waterford, Newman, Ceres and Turlock.

2 Adjustment factors are based on statistical analysis of trip lengths and location decisions for each of the six major types of land use.

3 The adjusted fees are based on a city/county cost per trip end of \$1,403.

Attachment C

REVISED TABLE VI - 11
INTER-CITY ROADS FEE SCHEDULE¹

<u>Land Use</u>	<u>Peak Hour Trip Ends</u>	<u>Diverted Trip Factor</u>	<u>Causality Adjustment Factor²</u>	<u>Adjusted Fee³</u>
RESIDENTIAL - Per Dwelling Unit				
Single family	1.00	1.00	1.53	1,905
Multi-family	0.67	1.00	1.53	1,276
Senior Housing	0.40	1.00	1.53	762
NON-RESIDENTIAL - per 1,000 Sq. Ft. (unless otherwise noted)				
Office				
General Office/Office Park	2.00	1.00	0.84	2,092
Medical Offices	3.60	1.00	0.84	3,765
Industrial				
Industrial (<20,000 sq. ft.)	1.00	1.00	0.84	1,046
-each 1,000 sq. ft. over 20,000 sq. ft.	0.20	1.00	0.84	209
Commercial				
Convenience Market	71.10	0.55	0.35	17,040
Small Retail (<50,000 sq. ft.)	12.36	0.75	0.35	4,039
Medium Retail (50-100,000 sq. ft.)	7.51	0.75	0.35	2,454
Shopping Center (100-300,000 sq. ft.)	4.17	0.75	0.35	1,363
Shopping Mall (>300,000 sq. ft.)	3.44	0.75	0.35	1,124
Restaurants				
Fast Food	43.30	0.60	0.35	11,321
High Turnover	19.93	0.75	0.35	6,513
Sit Down	7.25	1.00	0.35	3,159
Financial				
Bank	24.00	0.60	0.35	6,275
Savings & Loan	6.10	0.90	0.35	2,392
Manual Car Wash (per stall)	4.80	0.75	0.35	1,569
Church	0.64	1.00	0.35	279
Day Care Center	12.30	0.30	0.35	1,608
Hospital	1.58	1.00	0.35	688
Mini-Warehouse	0.26	1.00	0.35	113
Nursing Home	0.27	1.00	0.35	118
Gas Station-per pump	3.63	0.50	0.35	791
Motel/Hotel-per room	0.64	1.00	0.35	279
Golf Course (per acre)	0.39	1.00	1.00	486
Movie Theater	6.14	1.00	1.00	7,644
Racquet Club (per court)	3.94	1.00	1.00	4,905
Tennis Courts (per court)	3.43	1.00	1.00	4,270

1 The *inter-city* road fee applies to new development throughout the county.

2 Adjustment factors are based on statistical analysis of trip lengths and location decisions for each of the six major types of land use.

3 The adjusted fees are based on a *inter-city* cost per trip end of \$1,245.

25-unit, Subdivision, Single-Family Fees (per unit) by Select Region, Sub-region, and Fee Type										
Jurisdiction	Per unit Value 1999	Per Unit Fees							Total Fees	Fees per \$ Valuation
		Planning Fees	Planning & Building Check Fees	School Fees	Infrastructure & Impact Fees					
					Water, Sewer, Gas Elect. & Storm, Fire, Water Fees	Transportation & Park Fees	In-Lieu: Quinby, Other Fees & Taxes	Capital Improvement Fees		
Sonoma County	242,933	1,207	7,337	4,125	0	5,766	0	0	16,435	0.076
San Luis Obispo	180,892	595	2,290	4,825	5,416	1,875	1,889	3,277	20,268	0.112
Monterey County	229,360	5,702	3,437	4,825	10,805	2,000	10,574	861	39,203	0.171
San Joaquin County	154,750	973	3,221	7,726	2,288	1,784	1,776	435	16,216	0.111
Butte County	142,200	464	3,306	4,825	0	2,859	0	404	11,857	0.083
Sacramento County	216,980	1,205	1,954	8,175	8,542	5,189	1,311	1,973	28,358	0.131
Los Angeles County	242,040	1,025	3,005	11,893	9,897	2,000	98	589	28,506	0.118
Orange County	136,070	784	2,939	4,825	35	15,408	0	381	23,821	0.175
San Diego County	203,800	1,253	1,848	4,825	4,148	800	0	1,016	13,888	0.068
Stanislaus County	140,000	1,400	1,425	8,000	2,316	Included In	Included In	2,929	15,391	0.101
Cap. Imp. Fees Cap. Imp. Fees										
Manteca	172,750	446	3,305	4,825	7,551	1,910	3,123	2,134	23,304	0.135
Merced	147,434	351	3,882	8,250	4,033	1,919	907	728	20,088	0.138
Modesto	140,994	335	1,437	8,425	3,446	0	0	14,930	29,572	0.210
Stockton	159,533	2,358	3,005	8,175	8,452	3,305	278	1,051	28,623	0.187
Tracy	156,850	2,294	4,973	4,825	2,288	6,628	0	2,698	23,704	0.151

SOURCE: CA Dept. of Housing

COMPARISON OF PUBLIC FACILITY FEES
FOR SINGLE FAMILY DWELLINGS

Cities in Stanislaus County	Ceres	Hughson	Modesto	Newman	Oakdale	Riverbank	Patterson	Turlock	Waterford	Average	County
Single Family Dwelling	\$ 8,880	\$ 2,054	\$ 6,377	\$ 11,002	\$ 10,587	\$ 8,601	\$ 14,325	\$ 2,923	\$ 2,098	\$ 7,183	\$ 2,929

SOURCE: Cities

ATTACHMENT E

<p>Per Square Foot Cost Data R.S. Means Square Foot Costs, 23rd Annual Edition</p>	<p>Back to Summary Page Assumptions Page</p>
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Category	Building Cost per SF	Regional Adjustment 1.09	Land Cost 1.20	Project Cost 1.35
Criminal Justice				
Office-type (M.460, p. 168-169)	106.65	116.25	139.50	188.32
Detention				
Jail (M.370, p. 150-151)	180.75	197.02	236.42	319.17
Libraries				
Library (M.390, p.154-155)	104.80	114.23	137.08	185.06
Behavioral Health				
Medical Office (M.400, p. 156-157)	123.40	134.51	161.41	217.90
Health				
Medical Office (M.400, p. 156-157)	123.40	134.51	161.41	217.90
Other County Facilities				
Office-type (M.460, p. 168-169)	106.65	116.25	139.50	188.32
Sheriff				
Police Station (M.490, p. 174-175)	141.55	154.29	185.15	249.95
Animal Services				
[No comparable R.S. Means data] County experience	-	-	222.00	222.00
Emergency Services				
Police Station (M.490, p. 174-175)	141.55	154.29	185.15	249.95

ATTACHMENT F

Vehicle Inventory By Category		Back to Summary Page		Assumptions Page		Average	
CATEGORY	CLASS	Units	Unit Cost	Class cost	Ex Population	Cost per capita	
<u>Criminal Justice</u>	4X4 Utility Vehicle	1	\$26,000	\$26,000			
	Mini Cargo Van	1	\$18,000	\$18,000			
	Mini Passenger Van	5	\$20,000	\$100,000			
	15 Passenger Van	1	\$22,000	\$22,000			
	Compact Sedan	2	\$14,000	\$28,000			
	Intermediate Sedan	31	\$16,000	\$496,000			
	Full-size Sedan	9	\$18,000	\$162,000			
	Total			\$852,000	566,005	\$	1.51
<u>Detention</u>	Large Cargo Van	3	\$25,000	\$75,000			
	Crew Cab Pickup	1	\$24,000	\$24,000			
	Compact Pickup	1	\$12,000	\$12,000			
	1/2 Ton Pickup	5	\$15,000	\$75,000			
	3/4 Ton Pickup	2	\$18,000	\$36,000			
	15 Passenger Van	12	\$22,000	\$264,000			
	Intermediate Sedan	6	\$16,000	\$96,000			
	Police Interceptor	2	\$28,000	\$56,000			
	full-size Sedan	6	\$18,000	\$108,000			
	Trailers	9	\$8,000	\$72,000			
	Total			\$818,000	566,005	\$	1.45
<u>Library</u>	Large Cargo Van	3	\$25,000	\$75,000	566,005	\$	0.13
<u>Parks</u>	4x4 Pickup	5	\$21,000	\$105,000			
	Large Cargo Van	2	\$25,000	\$50,000			
	Crew Cab Pickup	10	\$24,000	\$240,000			
	1/2 Ton Pickup	13	\$15,000	\$195,000			
	3/4 Ton Pickup	14	\$18,000	\$252,000			
	Compact Sedan	3	\$14,000	\$42,000			
	1 Ton Pickup	5	\$21,000	\$105,000			
	Trailer	9	\$8,000	\$72,000			
		Total			\$1,061,000	566,005	\$	1.87
<u>Behavioral Health</u>	Large Cargo Van	1	\$25,000	\$25,000			
	Mini Cargo Van	1	\$18,000	\$18,000			
	Crew Cab Pickup	1	\$24,000	\$24,000			
	Compact Pickup	1	\$12,000	\$12,000			
	Mini Passenger Van	17	\$20,000	\$340,000			
	12 Passenger Van	4	\$18,000	\$72,000			
	Compact Sedan	3	\$14,000	\$42,000			
	Intermediate Sedan	22	\$16,000	\$352,000			
	full-size Sedan	4	\$18,000	\$72,000			
	1 Ton Pickup	1	\$21,000	\$21,000			
	Total			\$976,000	566,005	\$	1.73
<u>Health</u>	Large Cargo Van	4	\$25,000	\$100,000			
	Compact Sedan	7	\$14,000	\$98,000			
	Intermediate Sedan	11	\$16,000	\$176,000			
	Trailer	9	\$8,000	\$72,000			
	Total			\$446,000	566,005	\$	0.79
<u>Sheriff</u>	4x4 Pickup	6	\$21,000	\$126,000			
	4X4 Utility Vehicle	7	\$26,000	\$182,000			
	Large Cargo Van	9	\$25,000	\$225,000			
	Mini Cargo Van	3	\$18,000	\$54,000			
	Crew Cab Pickup	1	\$24,000	\$24,000			
	Compact Pickup	5	\$12,000	\$60,000			
	1/2 Ton Pickup	3	\$15,000	\$45,000			
	Mini Passenger Van	3	\$20,000	\$60,000			
	15 Passenger Van	1	\$22,000	\$22,000			
	Compact Sedan	7	\$14,000	\$98,000			
	Intermediate Sedan	47	\$16,000	\$752,000			
	Police Interceptor	74	\$28,000	\$2,072,000			
	full-size Sedan	22	\$18,000	\$396,000			
	1 Ton Pickup	4	\$21,000	\$84,000			
	Trailer	4	\$8,000	\$32,000			
	Total			\$4,232,000	566,005	\$	7.48
<u>Animal</u>	Animal Control Van	3	\$24,000	\$72,000			
	Animal Control Truck	6	\$48,000	\$288,000			
	3/4 Ton Pickup	1	\$18,000	\$18,000			
	Compact Pickup	1	\$12,000	\$12,000			
	Total			\$390,000	566,005	\$	0.69
<u>Emergency Services</u>	4x4 Emergency Vehicle	2	\$36,000	\$72,000	566,005	\$	0.13
<u>Other County Facilities</u>	4x4 Pickup	1	\$21,000	\$21,000			
	4X4 Utility Vehicle	1	\$26,000	\$26,000			
	Large Cargo Van	11	\$25,000	\$275,000			
	Mini Cargo Van	8	\$18,000	\$144,000			
	Crew Cab Pickup	1	\$24,000	\$24,000			
	Compact Pickup	38	\$12,000	\$456,000			
	1/2 Ton Pickup	28	\$15,000	\$420,000			
	3/4 Ton Pickup	11	\$18,000	\$198,000			
	Mini Passenger Van	38	\$20,000	\$760,000			
	12 Passenger Van	6	\$18,000	\$108,000			
	15 Passenger Van	1	\$22,000	\$22,000			
	Compact Sedan	32	\$14,000	\$448,000			
	Intermediate Sedan	63	\$16,000	\$1,008,000			
	full-size Sedan	3	\$18,000	\$54,000			
	1 Ton Pickup	7	\$21,000	\$147,000			
Trailer	5	\$8,000	\$40,000				
	Total			\$4,151,000	566,005	\$	7.33

CITY-COUNTY ROAD PROJECTS

EXHIBIT G

<u>Item #</u>	<u>City/County Road</u>	<u>Project Boundary</u>	<u>Estimated Total Cost</u>
1	Claus Rd	Claribel Rd to Townsend Ave	\$5,572,463.00
2	East Ave	Daubenberger Rd to Gratton Rd	\$6,328,933.00
3	Golden State Blvd	Taylor Rd to Keyes Rd	\$5,395,750.00
4	Hatch Rd	Faith Home Rd to Santa Fe Ave	\$7,551,121.00
5	Keyes Rd	Faith Home Rd to Foote Rd	\$902,520.00
6	Las Palmas Ave	Patterson City Limits to Lateral C	\$756,875.00
7	Oakdale Rd	Claribel Rd to Morrill Rd	\$3,004,978.00
8	Roselle Ave	Claribel Rd to Riverbank City Limits	\$6,229,836.00
Total			\$35,742,476.00

The Roads Listed Below Were Removed From The Fee Program By Board Action On June 8, 1999.

<u>Item #</u>	<u>City/County Road</u>	<u>Project Boundary</u>	<u>Estimated Total Cost</u>
1	Geer Rd	Zeering Rd to Taylor Rd	\$383,133.00
2	Golden State Blvd	Zeering Rd to Taylor Rd	\$538,855.00
3	Monte Vist Ave	State Route 99 to Golden State Blvd	\$405,168.00
4	Monte Vist Ave	Golden State Blvd to Turlock City Limits	\$927,342.00
5	Zeering Rd	Ollve Ave to Berkeley Ave	\$600,000.00
Total			\$2,854,498.00

Endnotes: These estimated projects cost included R/W, Engineering and Construction. Their were based by taking six of these project and up-dated them to 2001-2002 current market prices taken from bid received by the County on similar projects. The highest and the lowest numbers were dropped and a average of 4.6 as a multipller applied and rounded-up to the estimates reflected in the 1990 PFF adopted program.

CITY/COUNTY TRAFFIC SIGNALS
No Caltrans Assistance

Item #	Signal Location	Estimated Cost	Other
1	Geer Rd. @ Taylor Rd. (Turlock Sphere)		Removed from PFF by BOS on June 8, 1999
2	GoldenState @ Keyes Rd.	\$0.00	Done
3	Lester @ Monte Vista/ Maint.	\$400,000.00	Signals \$200k; roadwork \$100k; R/W \$50k; Design \$50k
4	Crows Landing @ Service Rd. (Ceres Sphere)		Done
5	Morgan Rd. @ Whitmore Ave. (Ceres Sphere)		By Ceres only
6	Claus @ Claribel Rd. (Riverbank Sphere)	\$0.00	Done
7	Stearns Rd. @ State Route 108/120	\$600,000.00	Signals \$350k; roadwork \$100k; R/W \$50k; Design \$100k
8	Santa Fe @ Main	\$750,000.00	R/R \$250k; signals \$275k; roadwork \$75k; R/W \$50k; Design \$100k
CITY/COUNTY TOTAL		\$1,750,000.00	

Notes: Item # 7, assumes the intersection with 108/120 stays as-is after Caltrans is done with construction of by-pass and is relinquished to County. It is also assume that 2-intersections with traffic signals will be installed at \$175k each plus \$100k for roadwork, \$50k for needed R/w, and \$100k for design engineering

Item # 8, \$250k is allocated for dealing with the R/R x-ing portion only; \$275k is for the road signals to work with the R/R pre-emption; roadwork \$75 does not include dealing with track x-ing's; R/W \$50k acquisitions of land for road intersection only; \$100k deign engineering cost.

CITY/COUNTY STATE HIGHWAY PROJECTS

<u>Item #</u>	<u>Route</u>	<u>Project Boundarlas/Descriptions</u>	<u>County Cost</u>	<u>Other</u>
1	Route 99	Pelandale Interchange <i>Reconstruct</i>	\$10,297,100.00	
2	Route 99	Hatch Overcrossing <i>Widen Structure</i>	\$12,268,200.00	
3	Route 99	Keyes Interchange <i>Widen structure, ramps and modify traffic signals</i>	\$27,600,000.00	
4	Route 99	Taylor Interchange <i>Widen structure & ramps</i>	\$11,458,600.00	
5	Route 99	Monte Vista Interchange <i>Modify south bound ramp geometrics & Install traffic signals</i>	\$0.00	City of Turlock
6	Route 99	Fulkerth Interchange <i>Modify ramps geometrics</i>	\$0.00	City of Turlock
7	Route 99	Lander Interchange <i>Modify ramps geometrics</i>	\$0.00	City of Turlock
8	Route 108	Crane to Willowood <i>Widen roadway</i>	\$0.00	City of Oakdale
9	Route 108	Route 219 to Crane <i>Widen roadway</i>	\$8,717,000.00	
10	Route 108	Crane to Willowood <i>Channelize to 4-lanes</i>	\$0.00	City of Oakdale
CITY/COUNTY TOTAL			\$70,340,900.00	

Endnote: Estimates are base on the adopted 1990 PFF with a 4.6 multiplier. Multiplier base in current 2001-2002 market price comparison.

ALL TOTALS ADD TO \$110,687,874

INTER-CITY ROAD PROJECTS

<u>Item #</u>	<u>Inter-City Routes</u>	<u>Project Boundaries</u>	<u>Estimated Total Cost</u>
1	Carpenter Rd	West Main to Service Rd	\$25,069,462.00
2	Carpenter Rd	Service Rd to Whitmore Ave	\$4,692,769.00
3	Claus Rd	Terminal Ave to Claribel Rd (6 Lane)	\$8,691,963.00
4	Crows Landing Rd	State Route 33 to River Rd	\$13,312,253.00
5	Crows Landing Rd	River Rd to Carpenter Rd (bridge)	\$23,339,761.00
6	Crows Landing Rd	Carpenter Rd to West Main	\$15,386,122.00
7	Crows Landing Rd	West Main to Whitmore Ave	\$26,000,000.00
8	Falth Home Rd	Keyes Rd to Redwood Rd	\$11,128,063.00
9	Geer-Albers	Taylor Rd to Warnerville Rd	\$16,582,490.00
10	Las Palmas Ave	Lateral C to Poplar Ave	\$6,713,360.00
11	McHenry Ave	Ladd Rd to San Joaquin County Line (bridge)	\$37,962,604.00
12	Santa Fe Ave	Keyes Rd to Geer Rd	\$8,967,199.00
13	Santa Fe Ave	Geer Rd to Tuolumne River (bridge)	\$33,686,918.00
14	Sperry Rd	Baldwin Rd to I-5 **	\$9,716,000.00
15	West Main	Poplar Ave to Jennings Rd.	\$13,842,733.00
16	West Main	Jennings Rd to Falth Home Rd	\$28,034,194.00
17	West Main	Falth Home Rd to Washington Rd	\$4,027,319.00
Total			\$287,153,210.00

* The West Main/San Joaquin River Bridge was removed from the fee program by action of the Board on October 9, 2001.
The Estimated Construction and Estimated Total Cost still reflect the cost of the bridge.

** Added to the fee program by action of the Board on October 9, 2001.

Endnotes: These estimated projects cost included R/W, Engineering and Construction. Their were based by taking six of these project and up-dated them to 2001-2002 current market prices taken from bid received by the County on similar projects. The highest and the lowest numbers were dropped and a average of 4.6 as a multiplier applied and rounded-up to the estimates reflected in the 1990 PFF adopted program.

INTER-CITY IC SIGNALS

No Caltrans Assistance

Item # Signal Location

Estimated Cost

Others

Item #	Signal Location	Estimated Cost	Others
1	Albers @ Claribel	\$0.00	Done
2	Albers @ Milnes Rd.	\$175,000.00	Road Improvements cost under Albers Rd. PFF
3	Albers @ Oakdale / Waterford Hwy.	\$0.00	Done
4	Albers @ Patterson Rd.	\$0.00	Done
5	Albers @ State Route 132	\$90,000.00	1/2 Signal cost
6	Atlas @ State Route 108/120	\$175,000.00	Assumes Caltrans to relinquish newly constructed road to the County
7	Carpenter @ West Main Ave.	\$175,000.00	Rd. Improvements under West Main and Carpenter Rd. PFF's
8	Carpenter @ Crows Landing Rd.	\$175,000.00	Rd. Improvements under Crows Landing PFF
9	Carpenter @ Grayson Rd.	\$175,000.00	Rd. Improvements under Carpenter's PFF
10	Carpenter @ Keyes Rd.	\$175,000.00	Rd. Improvements under Carpenter's PFF
11	Coffee Rd. @ State Route 108	\$90,000.00	1/2 signal cost
12	Crows Landing Rd. @ Grayson Rd.	\$175,000.00	Rd. Improvements under Crows Landing PFF
13	Crows Landing Rd. @ Keyes Rd.	\$175,000.00	Rd. Improvements under Crows Landing PFF
14	Crows Landing Rd. @ Service Rd.	\$175,000.00	Rd. Improvements under Crows Landing PFF
15	Crows Landing Rd. @ West Main Ave.	\$175,000.00	Rd. Improvements under Crows Landing and West Main PFF's
16	Dilwood @ State Route 108/120	\$175,000.00	Assumes Caltrans to relinquish newly constructed road to the County
17	Falsh Home Rd. @ West Main Ave.	\$175,000.00	Rd. Improvement under West Main PFF
18	Falsh Home Rd. @ Keyes Rd.	\$175,000.00	Rd. Improvements under Falsh Home Rd. and Keyes Rd. PFF's
19	Geer @ Hatch Rd.	\$175,000.00	Rd. Improvements under Hatch PFF
20	Geer @ Keyes Rd.	\$175,000.00	Rd. Improvements under Geer's PFF
21	Geer @ Santa Fe Ave.	\$575,000.00	\$250k R/R; \$275k signals; \$50k design; roadwork \$100k
22	Geer @ Service Rd.	\$175,000.00	Rd. Improvements under Geer's PFF
23	Geer @ Whitmore Ave.	\$175,000.00	Rd. Improvements under Geer's PFF
24	Hatch/Morgan/Herndon	\$0.00	Done
25	McHenry @ Ladd Ave.	\$175,000.00	Rd. Improvements under McHenry's PFF
26	McHenry @ Stewart Ave.	\$0.00	Done
27	Orange Blossom Rd. @ State Rt. 108/120	\$175,000.00	Assumes Caltrans to relinquish newly constructed road to the County
28	River Rd. @ State Route 120	\$0.00	Done
29	Santa Fe @ East Ave.	\$750,000.00	\$250k R/R; \$275k signals; \$50k R/W; \$100k design; \$75k road work
30	Santa Fe @ Hatch Rd. Ave.	\$575,000.00	\$250k R/R; \$275k signals; \$50k design. Santa Fe & Hatch PFF's
31	Santa Fe @ Keyes Rd.	\$575,000.00	\$250k R/R; \$275k signals; \$50k design. Santa Fe PFF's
32	Santa Fe @ Service Rd.	\$575,000.00	\$250k R/R; \$275k signals; \$50k design. Santa Fe PFF
33	Stoddard @ Kiernan Ave.	\$0.00	Done
34	State Route 33 @ Crows Landing Rd.	\$90,000.00	1/2 Signal cost. Crows Landing PFF
35	State Route 120 @ River Rd.		removed from original PFF list
36	State Route 132 @ River Rd.	\$90,000.00	1/2 signal
37	State Route 99 @ Broadway (2 x-lngs)	\$180,000.00	2x90 for 1/2 signals
38	State Rt. 99 @ Keyes Rd. ramps (2 x-lngs)	\$180,000.00	2x90 for 1/2 signals

INTER-CITY TOTAL

\$7,095,000.00

NOTE:

These estimates are base on 2001/2002 prices on bids received for County projects

INTER-CITY STATE HIGHWAY PROJECTS

<u>Item #</u>	<u>Inter-City Routes</u>	<u>Project Boundaries/Descriptions</u>	<u>County Cost</u>	<u>Other</u>
1	State Highway	Oakdale Bypass <i>(Stages 1 & 2)</i>	\$0.00	Caltrans funded
2	Route 99	Klernan Interchange <i>Ramp Improvement</i>	\$657,800.00	
3	Route 99	Faith Home Overcrossing <i>Widen Structure</i>	\$16,100,000.00	
4	Route 108	Route 219 to Crane <i>Widen Structure</i>	\$17,158,000.00	
5	Route 108	Modesto-Riverbank-Oakdale Expressway <i>New Construction</i>	\$0.00	
6	Route 120	San Joaquin County to Valley Home <i>Upgrade 2-lane expressway to 4-lanes</i>	\$6,900,000.00	
7	Route 132	Empire Railroad Crossing <i>Grade Separation</i>	\$0.00	
8	Route 132	Root Road to Geer/Albers <i>Widen to 4 lanes with left turn pockets</i>	\$8,050,000.00	
9	Route 132	Geer/Albers to Reinway <i>Widen pavement and add turn pockets</i>	\$6,440,000.00	
10	Route 132	Nebraska to San Joaquin County River <i>4-lane freeway on new alignment</i>	\$0.00	
11	Route 132	Nebraska to Route 99 <i>Widen route within Modesto sphere</i>	\$0.00	
12	Route 219	Route 99 to Dale <i>Widen roadway to 4-lane expressway</i>	\$0.00	Caltrans funded
INTER-CITY TOTAL			\$55,305,800.00	

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ALL TOTALS ADD TO \$34955546010

Note: A public facility fee shall be charged and paid at the time of issuance of a building permit for development. The fee shall be determined by the fee schedule in effect on the date that: the vesting tentative map or vesting parcel map is deemed complete. For projects that do not have a vested map, then, the date a building permit application is deemed complete, or a development agreement was executed shall be the base determinant.

ORDINANCE NO. C.S. _____

**AN ORDINANCE TO ESTABLISH GUIDELINES FOR PAYMENT OF
PUBLIC FACILITY FEES**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. For purpose of the implementation and payment of Public Facility Fees, pursuant to Section 23.04.010 of the Stanislaus County Code, as amended, the Board establishes the following guidelines so that a development project that is not vested would be subject to the fees in place prior to April 5, 2003, if the development project meets either of the following two criteria:

1. The development project is the subject of a written development agreement entered into and signed by the developer(s) and the County or a city within the County prior to April 5, 2003; or
2. A completed building permit application for the development project has been submitted to the County or a city within the County prior to April 5, 2003.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____, seconded by Supervisor _____, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the _____ day of _____, 2003 by the following called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Raymond C. Simon
Chair of the Board of Supervisors of the
County of Stanislaus, State of California

ATTEST:
CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By _____
Deputy

APPROVED AS TO FORM:
MICHAEL H. KRAUSNICK

COUNTY COUNSEL

By _____

Dean Wright

Deputy County Counsel

Modesto C'

COUNTYWIDE FEE SCHEDULE

February 4, 2003 Adopted
April 5, 2003 Effective Date

Countywide B

	INTER-CITY ROAD	ANIMAL SERV	CRIMINAL BHRS JUSTICE	EMERG SERV	HEALTH	DETENTION	LIBRARY	OTHER	PARKS	ADMIN	COUNTYWIDE TOTAL	
RESIDENTIAL PER UNIT												
Single Family	1,904.85	39.26	224.62	77.76	16.44	265.83	844.03	271.23	768.31	881.99	132.36	5,426.68
Multi-Family	1,276.25	39.26	224.62	77.76	16.44	265.83	844.03	271.23	768.31	801.99	116.64	4,782.36
Senior Housing	761.94	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	47.01	1,927.59
NON-RESIDENTIAL PER 1,000 SQ FT (UNLESS OTHERWISE NOTED)												
General Office - Park	2,091.60	21.60	123.55	42.77	9.04	146.22	464.26	149.19	422.61	485.15	98.90	4,054.89
Medical	3,764.88	21.60	123.55	42.77	9.04	146.22	464.26	149.19	422.61	485.15	140.73	5,770.00
INDUSTRIAL												
<20,000 sq ft	1,045.80	9.26	52.95	18.33	3.88	62.67	198.97	63.94	181.12	207.92	46.12	1,890.96
Manufacturing	209.16	1.85	10.59	3.67	0.78	12.53	39.79	12.79	36.22	41.58	9.22	378.18
Mixed use/dist	41.83	0.41	2.37	0.82	0.17	2.81	8.92	2.87	8.12	9.32	1.94	79.58
Warehouse	20.92	0.15	0.87	0.30	0.06	1.02	3.25	1.04	2.96	3.40	0.85	34.82
COMMERCIAL - RETAIL												
Convenience Market	17,040.00	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	453.97	18,612.61
Retail <50K	4,039.40	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	128.95	5,286.99
Retail 50K-100K	2,454.36	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	89.33	3,662.33
Retail 100K - 300K	1,362.81	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	62.04	2,543.49
Shopping Mall	1,124.24	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	58.07	2,298.95
RESTAURANTS												
Fast Food	11,320.79	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	310.99	12,750.42
High Turnover	6,513.37	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	190.80	7,822.81
Sit Down	3,159.19	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	106.95	4,384.78
FINANCIAL												
Bank	6,274.80	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	184.84	7,578.28
Savings & Loan	2,392.27	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	87.77	3,598.68
MISCELLANEOUS												
Manual Car Wash (stall)	1,568.70	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	67.18	2,754.52
Church	278.88	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	34.94	1,432.46
Day Care Center	1,607.82	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	68.16	2,794.72
Hospital	688.49	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	45.18	1,852.31
Mini-Warehouse	113.30	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	30.80	1,262.74
Nursing Home	117.65	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	30.91	1,267.20
Gas Station (per pump)	790.89	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	47.74	1,957.27
Motel/Hotel (per room)	278.88	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	34.94	1,432.46
Golf Course (per acre)	485.55	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	40.10	1,644.29
Movie Theater	7,644.30	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	219.07	8,982.01
Racquet Club (per court)	4,905.30	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	150.60	6,174.54
Tennis (per court)	4,270.35	12.96	74.13	25.66	5.43	87.73	278.56	89.51	253.57	291.09	134.72	5,623.71

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-275**

**A RESOLUTION IN SUPPORT OF SOLUTIONS TO THE STATE'S BUDGET
CRISIS**

WHEREAS, the California state budget crisis is the most significant opportunity to reverse negative productivity, financial and economic trends affecting the State, and

WHEREAS, the current debate over the budget assumes that the only options are increasing taxes, decreasing public services, or deficit bonding, an assumption which may not encompass all potentially successful approaches to the crisis, and

WHEREAS, a "Citizens' Budget Plan" devised and offered by the Reason Foundation details these issues, offers constructive solutions, and provides the seeds for the beginning of a possible bipartisan compromise on the budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that we strongly encourage the Governor and state lawmakers to:

- **Seek a Bipartisan, Gimmick-Free Budget Agreement:** Compromise and constructive dialogue on the budget must occur now, or the budget problem will not be solved. Moreover, the solution to the current crisis cannot rest on accounting maneuvers, deficit bonding or "savings" that merely push the crisis into the future.
- **Review the Performance and Management of State Programs for Savings:** Instead of cutting the budget across-the-board lawmakers should conduct in-depth, line-by-line reviews of state programs to evaluate the performance and cost-effectiveness of those operations. Where programs are not a top priority or exhibit performance problems, spending should be suspended until the crisis is over. Among the management reforms that lawmakers should consider include: reorganize the state government to integrate duplicative and overlapping programs, reduce excessive personnel costs, implement employee performance management reviews, consolidate

“overhead” services for state agencies, open state commercial activities to competitive sourcing, divest unused assets, use information technology to offer services online, and provide one-stop service for citizens.

- **Improve Quality of Life Programs (Education, Health, Social Service, Transportation):** Certain services that citizens depend on are being provided at higher cost than similar services in other states. The budget should correct this by proposing fundamental reforms to these key program areas using benchmarks from other states, encouraging competition and choice in each service area, expanding local control and delivery of service, and ensuring voter-approved bonds in special funds are not used to cover general fund expenses.
- **Adopt a Biennial Budget and Taxpayer’s Bill of Rights:** To prevent a fiscal crisis from re-occurring, the state should move to a permanent two-year budget cycle and adopt fundamental constitutional reforms to limit growth in government revenues to increases in population and inflation, require a two-thirds vote for tax and fee increases, and create an automatic spending reduction “trigger” when revenues fall short of expectations.
- **Create A “Jobs-Friendly” State in the Nation:** Revenue to the state government will improve if jobs are created in California. To increase revenues, California must become a jobs-friendly state. To achieve this, lawmakers should resist increasing taxes and fees, reform workers’ compensation insurance, and make regulations more performance-based and flexible.

BE IT FURTHER RESOLVED that state lawmakers should not agree to cuts in services or increase taxes, fees or borrowing until they fully explore and act on all ten of these reforms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

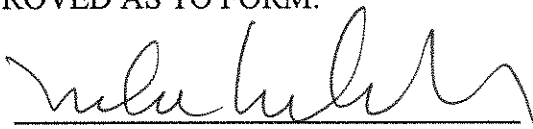
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-276**

A RESOLUTION AMENDING THE FY02-03 CAPITAL IMPROVEMENT BUDGET TO 1) TRANSFER \$7,000.00 FROM 6100-480-5012-0360, WATER ZONE 1, TO 1350-310-N107-9628, McKINNEY COLONY PARK, AND 2) APPROPRIATE \$72,169.72 FROM 1350-800-8000-8003, PARKS CFF RESERVE TO 1350-310-N107-9628

WHEREAS, the bids received for the McKinney Colony Park Improvements project, were opened at 11:00 a.m. on May 6, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the bid of \$225,755.69 be accepted as the lowest responsible bid and Finance has determined that there is \$184,964.43 available for this project in FY02-03 Capital Improvement Project, and

WHEREAS, due to favorable bidding on other recent Parks' projects, additional funds are available in the Parks' CFF reserves,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY02-03 Capital Improvement Budget to transfer \$7,000.00 from 6100-480-5012-0360 to 1350-310-N107-9628 and appropriate \$72,169.72 from 1350-800-8000-8003, Parks' CFF Reserve to 1350-310-N107-9628.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the steps necessary to amend the FY 02-03 Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-277**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$225,755.69
CONTRACT WITH BARHAM, INC., FOR THE PROJECT TITLED
“MCKINNEY COLONY PARK”**

WHEREAS, the bids received for the McKinney Colony Park project were opened at 11:00 a.m. on May 6, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$225,755.69 received from Barham Inc., be accepted as the lowest responsible bid and the contract be awarded to Barham, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Barham, Inc., in the amount of \$225,755.69, and hereby awards Barham Inc., the contract titled “McKinney Colony Park Improvements” for \$225,755.69.

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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-278**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$2,156,691.42
CONTRACT WITH WESTERN STATES SURFACING INC., FOR THE
PROJECT TITLED "2003 SLURRY & CAPE SEALS"**

WHEREAS, the bids received for the 2003 SLURRY & CAPE SEALS project, were opened at 11:00 a.m. on May 20, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$2,156,691.42 received from Western States Surfacing Inc., be accepted as the lowest responsible bid and the contract be awarded to Western States Surfacing, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$2,156,691.42, and hereby awards Western States Surfacing Inc., the contract titled "2003 SLURRY & 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 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Keating, Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-278A**

A RESOLUTION AMENDING THE FISCAL YEAR 2003 CAPITAL IMPROVEMENT AND OPERATIONS BUDGETS TO 1) TRANSFER \$142,043.83 FROM 0700-430-M141, \$762,437.98 FROM 03-0700-410-4120, AND \$949,069.70 FROM 0700-430-Q001 TO 0700-430-4380 '2003 SLURRY & CAPE SEAL PROJECT', 2) TO EXCHANGE \$518,809.05 OF FY2002 AND FY2003 AB2928 FUNDS IN 03-0510-410-4137 FOR GAS TAX FUNDS ABATING EXPENSES IN 03-0100-480-4612 AND TRANSFERRING THOSE FUNDS TO 03-0700-430-4380 '2003 SLURRY & CAPE SEAL PROJECT' 3) AUTHORIZE THE ROLLOVER OF UNEXPENDED FUNDS IN 03-0700-430-4380 IN THE FISCAL YEAR 2003 OPERATIONS BUDGET TO 04-0700-430-4380 IN THE FISCAL YEAR 2004 OPERATIONS BUDGET

WHEREAS, the bids received for the 2003 Slurry & Cape Seal project, were opened at 11:00 a.m. on May 20, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the bid of \$2,156,691.42 be accepted as the lowest responsible bid and Finance has determined that there are funds available for this project in Fiscal Year 2003 Capital Improvement and Operations Budgets, and

WHEREAS, revenues have been received from the State of California AB2928 for pavement maintenance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY02-03 Capital Improvement and Operations Budgets to establish a new operational account in the Gas Tax Fund: 03-0700-430-4380 '2003 Slurry & Cape Seal Project', and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of \$142,043.83 from 0700-430-M141, \$735,838.91 from 03-0700-410-4120, and \$949,069.70 from 0700-430-Q001 to partially fund 03-0700-430-4380, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the closing of 0700-430-Q001 and 0700-430-M141, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves (1) the exchange of \$518,809.05 of FY2002 and FY2003 AB2928 Traffic Congestion Relief funds in 03-0510-410-4137 with the General Fund for Gas Tax funds that have abated expenses in 03-0100-480-4127, and (2) the transfer of these Gas Tax Funds to 03-0700-430-4380, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby certified that all of the AB2829 Funds received by the City in Fiscal Year 2002 have been expended by June 30, 2003 and that the City is compliance with the timely use requirements of the State of California Traffic Congestion Relief Program, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that all funds in 03-0700-430-4380 that have not been expended by June 30, 2003 will be appropriated to 04-0700-430-4380 in the Fiscal Year 2004 Operations Budget, and

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to amend both the Fiscal Year 2003 Capital Improvement and Operations Budgets and the Fiscal Year 2004 Operations Budget as specified above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, O'Bryant,

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Keating, Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-279

**A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL
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 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 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 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

Budget Adjustments for the Month of May 2003

		FROM					
APPROPRIATIONS	GF Money	1300-310-M163-6040	M163D	\$1,614,000	(\$600,000)	\$1,014,000	
APPROPRIATIONS	GF Loan Money going to Fire CFF	1300-310-M163-6040	M163D	\$1,014,000	(\$200,000)	\$814,000	
APPROPRIATIONS	Fire CFF Money	1130-800-8000-8003	1130R	\$0	(\$82,000)	(\$82,000)	
APPROPRIATIONS	Spec Fd Cap \$ that went to fd 1130	1130-800-8000-8003	1130R	(\$82,000)	(\$25,000)	(\$107,000)	
APPROPRIATIONS	CDBG \$ in 1130 for M163	1130-800-8000-8003	1130R	(\$107,000)	(\$25,000)	(\$132,000)	
APPROPRIATIONS	Fire ABS	1300-310-M163-6040	M163D	\$814,000	(\$250,000)	\$564,000	
APPROPRIATIONS	Move Loan \$ back to GF	1320-800-8000-8003	1320R	\$282,000	(\$200,000)	\$82,000	
APPROPRIATIONS	Reduce Project M163 until Section 108 comes in	1300-31-M163-6040	M163D	\$564,000	(\$82,000)	\$482,000	
APPROPRIATIONS	Reduce Project M163 until Section 108 comes in	1300-310-M163-6040	M163D	\$482,000	(\$250,000)	\$232,000	
APPROPRIATIONS	CDBG \$ for project M163	1130-800-8003	1130R	(\$132,000)	(\$6,000)	(\$138,000)	

		TO					
APPROPRIATIONS	GF Reserve	0100-800-8000-8003	0100R	(\$2,876,406)	\$600,000	(\$2,276,406)	
APPROPRIATIONS	GF Loan Money in CFF	1320-180-8000-8003	1320R	\$0	\$200,000	\$200,000	
APPROPRIATIONS	Fire CFF Money	1320-800-8000-8003	1320R	\$200,000	\$82,000	\$282,000	
APPROPRIATIONS	Spec Fd Cap money that was in 1130M163	1300-800-8000-8003	1300R	\$0	\$25,000	\$25,000	
APPROPRIATIONS	CDBG \$ that should be in 1300M163	1300-800-8000-8003	1300R	\$25,000	\$25,000	\$50,000	
APPROPRIATIONS	Fire ABS	0100-180-1802-8099	1800V	\$207,940	\$250,000	\$457,940	
APPROPRIATIONS	Return of Loan from Fire CFF	0100-800-8000-8003	0100R	(\$2,876,406)	\$200,000	(\$2,676,406)	
APPROPRIATIONS	Return Money from M163	1300-800-8000-8003	1300R	\$50,000	\$82,000	\$132,000	
APPROPRIATIONS	Return Money from M163	1300-800-8000-8003	1300R	\$132,000	\$250,000	\$382,000	
APPROPRIATIONS	Appropriate additional money for M163	1300-310-M163-6010	M163	\$75,000	\$6,000	\$81,000	

Justification Parks Recreation and Neighborhoods is applying for a HUD section 108 loan. We are adjusting M163 (Marshall Park Center), to be funded entirely by HUD 108 Loan money. Thus freeing up \$1.1 million of General Fund and Fire money to be used in Fire Station 11 funding.

TRANSFERS BETWEEN FUNDS

		FROM					
APPROPRIATIONS	Transfer GF M163 monies back GF	1300-700-M163-7010	M163G	\$0	\$600,000	\$600,000	
APPROPRIATIONS	Transfer GF M163 monies back CFF	1300-701-7001-7132	1300L	\$0	\$200,000	\$200,000	
APPROPRIATIONS	Transfer M163 monies back CFF	1130-700-7000-7132	1130G	\$0	\$82,000	\$82,000	
APPROPRIATIONS	Transfer M163 monies to 1300 spec fd cap	1130-700-7000-7130	1130G	\$0	\$25,000	\$25,000	
APPROPRIATIONS	Transfer M163 monies to 1300	1130-700-7000-7130	1130G	\$0	\$25,000	\$25,000	
APPROPRIATIONS	Transfer M163 monies back Fire ABS	1300-700-7000-7010	1300G	\$0	\$250,000	\$250,000	
APPROPRIATIONS	Transfer Loan \$ back to GF	1320-700-7000-7010	1320G	\$0	\$200,000	\$200,000	
APPROPRIATIONS	Transfer Money to M163	1130-700-M163-7130	M163G	\$0	\$6,000	\$6,000	

		TO					
REVENUE	Receive M163 monies from 1300	0100-700-M163-9130	N/A	\$0	\$600,000	\$600,000	
REVENUE	Receive M163 loan monies from 1300	1320-701-7001-9130	N/A	\$0	\$200,000	\$200,000	
REVENUE	Receive M163 monies from 1130	1320-700-7000-9113	N/A	\$0	\$82,000	\$82,000	
REVENUE	Receive M163 monies from 1100	1300-700-7000-9113	N/A	\$0	\$25,000	\$25,000	
REVENUE	Receive M163 monies from 1100	1300-700-7000-9113	N/A	\$0	\$25,000	\$25,000	
REVENUE	Receive M163 monies from 1300	0100-700-7000-9130	N/A	\$0	\$250,000	\$250,000	
REVENUE	Receive money from 1320 for loan	0100-700-7000-9132	N/A	\$0	\$200,000	\$200,000	
REVENUE	Receive money from 1130	1300-700-M163-91130	N/A	\$0	\$6,000	\$6,000	

Justification Parks Recreation and Neighborhoods is applying for a HUD section 108 loan. We are adjusting M163 (Marshall Park Center), to be funded entirely by HUD 108 Loan money. Thus freeing up \$1.1 million of General Fund and Fire money to be used in Fire Station 11 funding.

APPROPRIATIONS	Contingency	0800-800-8000-8003	0800R	\$0	(\$85,112)	(\$85,112)	
APPROPRIATIONS	Services, Professional & Other	0800-140-1433-0235	1433C	\$152,967	\$85,112	\$238,079	

Justification A transfer will cover the change orders processed for the Goodwin Consulting Group contract - update of the Village One Facilities Master Plan and Finance Plan. There is no General Fund impact.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-280**

A RESOLUTION AUTHORIZING THE PURCHASE OF SEVEN (7) BULLARD THERMAL-IMAGING CAMERAS FROM L.N. CURTIS FOR A TOTAL COST OF \$70,652.75.

WHEREAS, the thermal-imaging camera is the latest technology designed to assist firefighters in search of fire victims, and in assuring all hot spots have been discovered and extinguished, and

WHEREAS, the thermal-imaging camera is used at every potential and working structure fire, and

WHEREAS, in 2000 a committee of Fire Department personnel evaluated several thermal-imaging cameras, and

WHEREAS, through the evaluation process it was determined that the Bullard product was the best fit for the Modesto Fire Department, and

WHEREAS, the Fire Department has since purchased a total of seven (7) Bullard thermal- imaging cameras, and

WHEREAS, an additional seven (7) cameras are needed to complete outfitting of each apparatus and Battalion Chief vehicle, and

WHEREAS, per Modesto Municipal Code (MMC) Section 8-3.204(d) the Purchasing Supervisor at his discretion, determined that a process other than formal bid procedure set forth in MMC Section 8-3.204 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, the Safety and Communities Committee has approved this request on June 2, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of seven (7) Bullard thermal-imaging cameras from L.N. Curtis in the amount of \$70,652.75 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-281**

A RESOLUTION RESTATING TERMS OF OFFICE AND PROCEDURES FOR THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC), INCLUDING REVISING THE COMPOSITION OF MEMBERSHIP FOR THE CH&CDC TO ACCEPT A REPRESENTATIVE APPOINTED BY THE COUNTY BOARD OF SUPERVISORS WHO IS NOT A MEMBER OF THE BOARD, AND RESCINDING RESOLUTION NO. 2000-437.

WHEREAS, by Resolution No. 75-834, adopted on August 11, 1975, the City Council appointed members to the Housing Maintenance and Counseling Subcommittee of the Citizens Housing and Community Development Committee (CH&CDC), and

WHEREAS, the CH&CDC met on May 26, 2000, and supported dissolution of the Housing Maintenance and Counseling Subcommittee which had not met for approximately ten years, and

WHEREAS, by Resolution No. 2000-437 adopted on August 15, 2000, the Council dissolved the Housing Maintenance and Counseling Subcommittee of the CH&CDC, and restated the terms of office and procedures for the CH&CDC, without inclusion of the Housing Maintenance and Counseling Subcommittee, and rescinded Resolution no. 96-576, and

WHEREAS, according to the resolution, the composition of the CH&CDC would include one member from the Stanislaus County Board of Supervisors, and

WHEREAS, in January 2003, Nick Blom, resigned from the Stanislaus County Board of Supervisors, and Jeff Grover filled his position, and

WHEREAS, since then, staff has been notified that Mr. Grover is unable to fill the seat on the CH&CDC, and

WHEREAS, staff had requested that another member of the Board of Supervisors be assigned to the CH&CDC, as directed by the CH&CDC members, and

WHEREAS, on March 26, 2003, staff was notified through e-mail that the Chair of the Board of Supervisor, Ray Simon, had appointed Jim Duval, Deputy Director of Planning and Community Development Block Grant Programs for the County, as a representative of Stanislaus County to serve on the CH&CDC, and

WHEREAS, on May 13, 2003, by Resolution No. 2003-239, the City Council discontinued the City's Small Business Loan Program and removed the Economic Development Loan Committee from the City's list of active committees, and

WHEREAS, the responsibility to provide staff assistance to the CH&CDC has been reassigned from the Community Development Department to the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the CH&CDC approved this action at its May 5, 2003, meeting, and

WHEREAS, the Council desires to restate the terms of office and procedures for the CH&CDC, including revising the composition of membership for the CH&CDC to accept a representative appointed by the Stanislaus County Board of Supervisors who is not a member of the Board,

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

A. Committee Titles and Roles.

The Committee titles and roles as hereinafter state are hereby established.

1. Title: **Citizens Housing and Community Development Committee**

Role: To provide overall review and make recommendations to the City Council regarding the City's Housing and Urban Development Entitlement Grant programs and related projects; to review the Annual Action Plan and the Consolidated Annual

Performance and Evaluation Report; to monitor and evaluate the entire program and committee effectiveness; to involve citizens in the program; and to formulate and transmit recommendations regarding policy matters to the City Council.

2. Title: **Housing Rehabilitation Loan Committee**

Role: To develop a rehabilitation loan pool, especially the procedural manual including administrative procedures and policies for loan funds, eligibility, and extent of governmental and private sector commitment of funds; to monitor and evaluate these rehabilitation loan pool efforts; to oversee and provide approval for individual loans in the Down Payment Assistance Program; to involve citizens in the program; to consider and approve requests for loans through the City Housing Rehabilitation programs; and to formulate and transmit recommendations regarding policy matters to the CH&CDC.

B. Committee Membership Composition and Terms.

Committee membership composition and terms of office shall be as follows:

1. Terms of Office

- a. There shall be a two term maximum for any person.
- b. Full terms shall be four years.
- c. A partial term of two or more years shall be considered a full term.

2. Membership Composition

All regular Committee members shall be appointed by the City Council. The two alternate members of the Housing Rehabilitation Loan Committee shall be appointed as follows:

Alternate Seat No. 8 – A member of the Citizens Housing and Community Development Committee who volunteers to be an Alternate delegate shall be approved by the Chairperson of the Citizens Housing and Community Development Committee and the Chairperson of the Housing Rehabilitation Loan Committee.

Alternate Seat No. 9 – A member of the Housing Authority of Stanislaus County who volunteers to be an Alternate delegate shall be approved by the Executive Director of the Housing Authority of Stanislaus County, the Chairperson of the Citizens Housing and Community Development Committee, and the Chairperson of the Housing Rehabilitation Loan Committee.

a. Citizens Housing and Community Development Committee

- Seat No. 1 – City Council Member
- Seat No. 2 – Citizen At Large
- Seat No. 3 – A representative appointed by the Stanislaus County Board of Supervisors, who is not required to be a member of the Board
- Seat No. 4 – Planning Commissioner
- Seat No. 5 – Human Relations Commissioner
- Seat No. 6 – Citizen At Large
- Seat No. 7 – Citizen At Large
- Seat No. 8 – Citizen At Large
- Seat No. 9 – Chairperson, Housing Rehabilitation Loan Committee
- Seat No. 10– Citizen At Large
- Seat No. 11 - Chairperson, Economic Development Loan Committee

b. Housing Rehabilitation Loan Committee

- Seat No. 1 - City Council Member
- Seat No. 2 - Financial Institution/Provider
- Seat No. 3 - Citizen At Large
- Seat No. 4 - Financial Institution
- Seat No. 5 - Provider/Services
- Seat No. 6 - Housing Authority of Stanislaus County
- Seat No. 7 - Provider/Services
- Seat No. 8 - Alternate, Citizens Housing and Community Development Committee
- Seat No. 9 - Alternate, Housing Authority of Stanislaus County

C. Chairperson and Vice Chairpersons.

1. Chairperson for the Citizens Housing and Community Development Committee and the Housing Rehabilitation Loan Committee shall be appointed by the City Council.

2. Vice Chairperson for the Citizens Housing and Community Development Committee and the Housing Rehabilitation Loan Committee shall be elected by the respective committees.

3. Full terms of the office of Chairperson and Vice Chairperson of the committee shall be four years commencing on July 1 of a given year and ending on June 30 four years later. Incumbents may serve more than one term.

D. Quorum and Voting.

1. A quorum shall be six persons for the Citizens Housing and Community Development Committee and four persons for the Housing Rehabilitation Loan Committee.

2. To take formal action, six affirmative votes shall be necessary for the Citizens Housing and Community Development Committee. To take formal action, a vote of a majority of those present, as long as at least a quorum is present, shall be necessary for the Housing Rehabilitation Loan Committee.

3. The Housing Rehabilitation Loan Committee, in order to guarantee a quorum necessary for each meeting, may have two Alternate members who shall be invited to each Committee meeting. These two Alternate delegates may participate in all discussions, but shall not vote on any action, unless their attendance is necessary to make a Committee quorum.

E. Staff

The Parks, Recreation and Neighborhoods Department shall provide staff support for the Citizens Housing and Community Development Committee and the Housing Rehabilitation Loan Committee, and shall coordinate assistance from other City departments.

BE IT FURTHER RESOLVED that City Council resolution No. 2000-437 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-282**

**A RESOLUTION APPROVING JIM DUVAL, DEPUTY DIRECTOR OF
PLANNING AND COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAMS, AS A MEMBER OF THE CITIZEN AND COMMUNITY
DEVELOPMENT COMMITTEE (CH&CDC), AN APPOINTMENT BY THE
STANISLAUS COUNTY BOARD OF SUPERVISORS**

WHEREAS, the Modesto City Council passed a resolution No. 2003-281 approving the revision to the composition of membership for the Citizens Housing and Community Development Committee (CH&CDC) restating terms of office and procedures for the CH&CDC and rescinding Resolution No. 2000-437, and

WHEREAS, according to the resolution, the composition of the CH&CDC would include one member appointed by the Stanislaus County Board of Supervisors who is not a member of the Board, and

WHEREAS, on March 26, 2003, staff was notified through e-mail that the Chair of the Board of Supervisors, Ray Simon, had appointed Jim Duval as the representative of Stanislaus County to serve on the CH&CDC, and

WHEREAS, at the May 5, 2003 meeting, the CH&CDC accepted Jim Duval as the representative assigned to the CH&CDC by the Stanislaus County Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appointment of Jim Duval, Deputy Director of Planning and Community Development Block Grant Programs, County of Stanislaus, as a member of the CH&CDC is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-283**

A RESOLUTION APPROVING ALLOCATION OF \$22,867 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND \$18,011 IN EMERGENCY SHELTER GRANT (ESG) FUNDING FOR FISCAL YEAR 2003-2004 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND EXECUTE THE AGREEMENTS.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (H.U.D.), 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 of the City's available CDBG entitlement grant may be allocated to nonprofit organizations for the purposes 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, the City allocates one hundred percent of its annual ESG grant to local nonprofit organizations for the purpose of providing assistance that is consistent with the functions of ESG funding to homeless persons and those at great risk for homelessness within the City of Modesto, and

WHEREAS, in Fiscal Year 2003-2004, fifteen percent of the City's available CDBG entitlement is \$433,500, and City's ESG grant is \$88,261,

WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-68) on February 4, 2003, approving an allocation of \$150,000 in CDBG public service funds to the Modesto Police Department for the operation of the Crime Free Multi-Housing Program,

WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-184) on April 8, 2003, approving an allocation of \$190,745 in CDBG and \$43,850 in ESG public service funding requests for FY 2003-2004, and

WHEREAS, on May 13, 2003, the Modesto City Council passed a resolution (Resolution No. 2003-238) approving the allocation of \$69,888 in CDBG and \$26,400 in ESG public service funding, and

WHEREAS, on April 8, 2003, the Modesto City Council also passed a resolution approving the balance of \$22,867 of CDBG and \$18,011 of ESG to be allocated through a second RFP process, and

WHEREAS, local non-profit organizations were invited to submit Requests for Proposals (RFPs) for the balance of available CDBG Public Service funds in the amount of \$22,867 and for \$18,011 in ESG funds, and

WHEREAS, at a public meeting on June 3, 2003, the Citizens Housing and Community Development Committee (CH&CDC) recommended funding as set forth in **Exhibits "A" and "B"** attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of \$22,867 in Fiscal Year 2003-2004 CDBG funding to Second Harvest Food Bank and \$18,011 in ESG funding to Interfaith

Ministries, as set forth in Exhibits "A" and "B" attached hereto and incorporated by reference.

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 any documents with respect to implementation of the allocation of Fiscal Year 2003-2004 CDBG and ESG Public Service Grant funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

CDBG Applications										
FY 2003-2004										
Agency	Program Name					Funding Request	Recommended	Available		
2nd round						CDBG	Amounts	CDBG		
						CDBG	CDBG	CDBG		
Victory Life Center	Warehouse and Lift Truck Training					20,123	0			
Children's Crisis Center	Sawyer House Food and Toy Sheds					8,000	0			
Stan. Community Assistance Proj.	Prevention for Positive Education					21,968	0			
Healthy Aging Association	Young at Heart					20,942	0			
Second Harvest Food Bank	Food Assistance Program					22,867	22,867			
DRAIL	Assistive Technology Services					12,900	0			
Total						106,800	22,867	22,867		
<p>The Review committee's recommendation is that the Second Harvest Food Bank "Food Assistance Program" be funded with the balance of available CDBG funds, \$22,867. The committee feels that this program provides a basic needs service not provided by any other agency, and that it is a very effective use of funds, as these dollars will be used to serve thousands of persons.</p> <p>Although the other proposing agencies also provide a very valuable service to the community, given the limited funds available, the committee felt that the recommended program was the best use of funds at this time.</p>										

ESG Applications FY 2003-2004							Funding Request ESG	Recommended Amounts ESG	Available ESG
Agency	Program Name								
2nd Round									
Interfaith Ministries	Redwood Family Center					18,000	18,011		
Children's Crisis Center	Sawyer House Homeless Shelter					7,560	0		
Total						25,560	18,011	18,011	
<p>The Review committee's recommendation is that the Interfaith Ministries "Redwood Family Center" be funded with the balance of available ESG funds, \$18,011. The Redwood Family Center is a new program providing a vitally needed service, in providing transitional housing to homeless women with children. This funding will enable the agency to put a new roof on the facility, allowing many years of use. This will be the first year of funding for Interfaith Ministries. Although the Children's Crisis Center is a very worthy program, they have already been allocated ESG funds for 03-04 for Cricket's House, and have more resources at this time than Interfaith Ministries.</p>									

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-284**

A RESOLUTION APPROVING AN AGREEMENT WITH DEL RIO COUNTRY CLUB FOUNDATION TO ADMINISTER THE FIRST TEE PROGRAM AT THE CITY'S MUNICIPAL GOLF COURSE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, The First Tee Program is a national program formed to promote the involvement of young people in golf and teach life skills as part of its curriculum, and

WHEREAS, City staff and the Golf Courses Committee have recommended introducing The First Tee Program in Modesto, and

WHEREAS, City staff has met with representatives from The First Tee and discussed Muni Golf Course as a possible site for The First Tee, and

WHEREAS, staff has met with representatives from the Del Rio Country Club Foundation which has expressed interest as the non-profit to administer The First Tee Program at Muni Golf Course, and

WHEREAS, the Del Rio CC Foundation feels that their missions and values match those that are required by The First Tee Program to manage and administer a First Tee site, and

WHEREAS, at their November 5, 2001 meeting, the Human Services Committee supported the efforts to bring The First Tee Program to Modesto by working with the Del Rio Country Club Foundation as the possible non-profit organization to administer the program, and

WHEREAS, the Safety & Communities Committee reviewed a progress report on The First Tee Program at its August 5, 2002 meeting, and

WHEREAS, at their December 2, 2002 meeting, the Safety & Communities Committee supported entering into negotiations with the Del Rio CC Foundation to bring The First Tee Program to Muni Golf Course, and

WHEREAS, on January 7, 2003, the City Council adopted Resolution 2003-14 which authorized staff to enter into negotiations with the Del Rio CC Foundation to bring The First Tee Program to Muni Golf Course, and

WHEREAS, at their May 5, 2003 meeting, the Safety & Communities Committee supported entering into a ten-year agreement with the Del Rio CC Foundation to administer The First Tee Program at Muni Golf Course,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with the Del Rio Country Club Foundation to administer The First Tee Program at Muni Golf Course for a period of ten years.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-285**

**A RESOLUTION AMENDING SECTION 8.4 OF PERSONNEL RULE 8 OF THE
CITY OF MODESTO RELATING TO RELEASE FOLLOWING PROMOTION.**

WHEREAS, Section 1202 of Article XII of the Charter of the City of Modesto provides that the Personnel System provided by said Article shall be implemented by such rules and regulations governing the administration thereof as are adopted by the City Council upon recommendation of the City Manager, and,

WHEREAS, the City Council has adopted Personnel Rules as authorized by the City Charter, and

WHEREAS, the City Council last amended Personnel Rule 8.4 on August 24, 1982 by adoption of Resolution 82-684A, and

WHEREAS, the City Manager has recommended an amendment to Personnel Rule 8.4, and

WHEREAS, the City Council finds that said proposed amendment as recommended by the City Manager promotes the purposes and objectives of the Personnel System,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Personnel Rule 8.4 be amended to read as follows:

8.4 Release Following Promotion

Any employee released during, or at the conclusion of, the probationary period following promotion shall be reinstated, at his/her former salary step, to the position from which he/she was promoted, except as hereinafter provided:

- (a) If the reasons for his/her release are cause for dismissal from the City service, he/she shall not be entitled to reinstatement to his/her former position.
- (b) If an employee in the class of Firefighter is released from probation, he/she shall not be entitled to reinstatement to his/her former position of Firefighter Trainee.
- (c) If an employee in the class of Police Officer is released from probation, he/she shall not be entitled to reinstatement to his/her former position of Police Officer Trainee or Law Enforcement Academy Recruit.
- (d) If an employee in the class of Police Officer Trainee is released from probation, he/she shall not be entitled to reinstatement to his/her former position of Law Enforcement Academy Recruit.

BE IT FURTHER RESOLVED that this resolution shall become effective on and after June 3, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-286**

**A RESOLUTION GRANTING THE APPEAL OF RMH VENTURES TO A
DECISION BY THE BOARD OF ZONING ADJUSTMENT REQUIRING THAT A
DRIVEWAY BE LOCATED IN ACCORDANCE WITH THE CITY'S STANDARD
SPECIFICATIONS IN CONJUNCTION WITH APPROVING A PLOT PLAN FOR
OFFICES ON THE WEST SIDE OF COFFEE ROAD, OPPOSITE ENSENADA
DRIVE**

WHEREAS, Section 10-2.903(a) of the Municipal Code authorizes the Board of Zoning Adjustment to grant plot plan approvals for office buildings in the P-O zone, and

WHEREAS, on November 26, 2002, RMH Ventures (applicant) submitted an application for plot plan approval for an office building to be located on the west side of Coffee Avenue, opposite Ensenada Drive, and

WHEREAS, the site plan proposed a shared driveway with the parcel to the north of the subject property, and

WHEREAS, it was determined by Engineering and Transportation staff that the proposed driveway did not meet City Standards due to its location relative to Ensenada Drive, and

WHEREAS, the applicant agreed to relocate the driveway in accordance with Standard Specifications, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on April 24, 2003, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, by Resolution No. 2003-31 the Board of Zoning Adjustment approved the project with the driveway located in accordance with City Standards, and

WHEREAS, an appeal to the Board of Zoning Adjustment's approval of the project with the driveway located in accordance with City Standards was filed with the Office of the City Clerk by RMH Ventures on May 6, 2003, and

WHEREAS, said appeal was set for a hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on June 10, 2003, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that the appeal to the Board of Zoning Adjustment's decision requiring that a driveway be located in accordance with the City's Standard Specifications in conjunction with approving a plot plan for offices on the west side of Coffee Road, opposite Ensenada Drive should be granted provided that a median be installed on this section of Dale Road.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal to the Board of Zoning Adjustment's decision requiring that a driveway be located in accordance with the City's Standard Specifications in conjunction with approving a plot plan for offices on the west side of Coffee Road, opposite Ensenada Drive be granted subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall install a median on Coffee Road in front of the proposed project in accordance with City standards, as determined by the Engineering and Transportation Director.
2. Prior to the issuance of a building permit, the applicant shall submit a site plan with the revised driveway location and median in Coffee Road for final approval by the Community and Economic Development Director.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-287**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE FAIRVIEW VILLAGE SPECIFIC PLAN FINAL FOCUSED ENVIRONMENTAL IMPACT REPORT (SCH NO. 95032006): SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND NORMAN GALAS, JUNE GALAS, STANLEY GALAS, BONNIE K. GALAS AND DEL VALLE CAPITAL CORPORATION, INC., EXTENDING THE LIFE OF THE GALAS BROTHERS VESTING TENTATIVE SUBDIVISION MAP TO DECEMBER 31, 2003.

WHEREAS, on December 12, 1995, by Resolution No. 95-587, the City Council of the City of Modesto certified the Final Focused Environmental Impact Report (“FEIR”) (SCH 95032006) for the Fairview Village Specific Plan, and

WHEREAS, on September 16, 1997, the City Council introduced Ordinance No. 3061-C.S. and which became effective on November 6, 1997, approving a Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. to allow the City to extend sewer service to the property without holding an advisory vote as required by Measure M, and

WHEREAS, on November 26, 2002, the City Council introduced Ordinance No. 3275-C.S. which approved an amended Development Agreement with Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. to extend the life of the Galas Brothers vesting tentative subdivision map to June 30, 2003, and containing provisions related; to the provision of affordable and accessible housing and infrastructure master planning, and

WHEREAS, Del Valle Capital Corporation, Inc. has applied for a Second Amendment to said Development Agreement for the Galas Brothers vesting tentative subdivision map located in the Fairview Village Specific Plan, to extend the life of the vesting tentative subdivision map to December 31, 2003, and containing provisions related to the provision of affordable and accessible housing and infrastructure master planning, (“the project”) and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for an 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 No. EA/C&ED 2002-59 reviewed the proposed project to determine whether the project is within the scope of the Fairview Specific Plan EIR, and made the determination that the 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 are required, and that, therefore, the proposed project is within the scope of the project covered by the EIR, and

WHEREAS, the proposed Second Amendment serves only to extend the life of the agreement and where no other changes to the scope or impacts of the project, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on June 10, 2003, 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 Environmental Assessment No. EA/C&ED 2002-59, 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 for the proposed project, makes the following findings:

1. As per Section 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Fairview Village Focused EIR (SCH No. 95032006) and no new environmental document or findings are required by CEQA.
2. There are no substantial changes proposed in the project which will require major revisions of the Fairview Village Focused EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Fairview Village Focused EIR.
4. No new information of substantial importance, which was not known and could not have been known at the time the Fairview Village Focused EIR was certified as complete, has become available.
5. The Initial Study, Environmental Assessment EA/C&ED 2002-59, provides the substantial evidence to support findings 1-4.

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 approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 fo the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

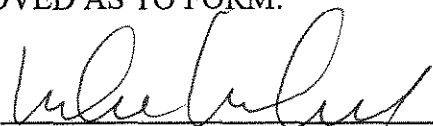
By: 
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"
INITIAL STUDY
EA/C&ED NO. 2002-59

City of Modesto
Initial Study

**First Amendment to Development Agreement Between the City of Modesto
and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle
Capital Corporation, Inc.**

EA/CDD 2002-59
October 30, 2002

I. PURPOSE

On December 12, 1995, the Modesto City Council certified the Final Focused Environmental Impact Report for the Fairview Village Specific Plan (SCH# 95032006). This Final Focused EIR analyzed the impacts of build-out of the Fairview Village Specific Plan, which includes the area in which this project is proposed.

Section 15182 of the CEQA Guidelines allows the Fairview Village Specific Plan Final Focused EIR to be used for subsequent projects, if the following findings can be made:

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

II. PROJECT DESCRIPTION

- A. Project title:
First Amendment to Development Agreement Between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc.
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Steve Mitchell, Community Development Department, (209) 577-5287
- D. Project Location:
The south side of Hatch Road west of Dezzani Lane and Ironside Drive.
- E. Project Sponsor:
Del Valle Capital Corporation, 1012 Tenth Street, Modesto, CA 95354

- F. General Plan Designation:
Village Residential (VR)
- G. Current Zoning:
Specific Plan-Overlay (SP-O) Zone
- H. Description of Proposed Project:
This is an amendment to the development agreement for the Galas Brothers vesting tentative subdivision map. The purpose of the development agreement is to extend the life of the tentative map to June 30, 2003, to provide a commitment to make available a percentage of the houses to low and moderate income families, and to provide a commitment to do storm drainage master planning.
- I. Surrounding land uses:
The project is surrounded on the north by existing ranchettes, to the east by existing single-family homes, and to the south and west by agricultural land designated in the Specific Plan for residential development.
- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

- A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report

Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of the Fairview Village Specific Plan Final Focused EIR:

1. Traffic and Circulation Needs

Impacts to traffic and circulation are discussed on pages 18 through 42 of the Fairview Village Specific Plan Final Focused EIR. The approved subdivision is consistent with the Fairview Village Specific Plan in land use and intensity, and will have access to adjacent streets consistent with the Specific Plan. This development agreement will not affect the traffic and circulation design of the subdivision. Therefore, the traffic generation from this development is consistent with the assumptions in the EIR, and there would be no change needed to this section of the EIR.

2. Degradation of Air Quality

Impacts to air quality are analyzed on pages 43 through 47 of the Fairview Village Specific Plan Final Focused EIR. Air quality impacts are directly related to traffic impacts for this project, as automobile exhaust emissions account for the vast majority of impacts to air quality in a residential development. Since the traffic impacts are consistent with those analyzed in the EIR, the air quality impacts are also consistent with those analyzed in the EIR.

3. Noise

Noise impacts are analyzed on pages 48 through 54 of the Fairview Village Specific Plan Focused EIR. The Galas Brothers subdivision is consistent with the Fairview Village Specific Plan in land use and intensity, and will have sound a wall along Hatch Road. The development agreement does not affect the land use, intensity or layout of the subdivision. Therefore, there would be no change needed to this section of the EIR.

4. Loss of Productive Agricultural Land

Loss of productive agricultural land is analyzed on pages 55 through 59 of the Fairview Village Specific Plan Focused EIR. The Galas Brothers subdivision is consistent with the Specific Plan in land use and intensity. Therefore, there would be no additional impacts to agricultural land with this development agreement, and no change needed to this section of the EIR.

5. Loss of Sensitive Wildlife and Plant Habitat

Impacts to sensitive wildlife and plant habitat are analyzed on pages 60 through 64 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use, intensity and physical location. Therefore, there would be no additional impacts to sensitive wildlife and plant habitat with this development agreement, and no change needed to this section of the EIR.

6. Disturbance of Archaeological or Historical Sites

Impacts to cultural resources are analyzed on pages 65 through 68 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use, intensity and physical location. Therefore, there would be no additional impacts to cultural resources with this development agreement, and no change needed to this section of the EIR.

7. Increased Demand for Schools

Demand for schools is analyzed on pages 69 through 73 of the Fairview Village Specific Plan Focused EIR. It concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, this conclusion remains valid, and no changes are needed to this section of the EIR.

8. Generation of Hazardous Materials

Generation of hazardous materials is analyzed on pages 74 through 76 of the Fairview Village Specific Plan Focused EIR. The subdivision is consistent with the Specific Plan in land use and intensity. Because this development agreement would not affect the land use and intensity of the subdivision, no changes are needed to this section of the EIR.

- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Fairview Village Specific Plan Focused EIR was certified by the Modesto City Council on

December 12, 1995. In the period since then, there has been no significant development in the surrounding area, and physical conditions affecting the subdivision have not changed significantly since then. Therefore, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Fairview Village Specific Plan Focused EIR or General Plan Master EIR.

- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Fairview Village Specific Plan Focused EIR was certified by the Modesto City Council on December 12, 1995. Since then, there is no new information, which was not known at the time the Fairview Village Specific Plan Focused EIR was certified, has become available, that would change the conclusions of the EIR.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. There are no substantial changes proposed in the project which will require major revisions of the Fairview Village Specific Plan Focused EIR.
- B. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Fairview Village Specific Plan Focused EIR.
- C. No new information, which was not known and could not have been known at the time the Fairview Village Specific Plan Focused EIR was certified as complete, has become available.
- D. This initial study provides substantial evidence to support findings A, B and C, above.

Signature:


Steve Mitchell,
Principal Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-288**

A RESOLUTION GRANTING THE APPEAL OF ZAKARIA KANNO AND RACHEAL KANNO TO THE DENIAL OF AN APPLICATION FOR A VARIANCE TO ALCOHOLIC BEVERAGE CONTROL (ABC) STANDARDS FOR A TYPE 20, OFF-SALE BEER AND WINE LICENSE AT AMERICAN GAS, 1200 – 6TH STREET IN THE CITY OF MODESTO.

WHEREAS, regulations require the State Alcoholic Beverage Control Board to review applications and to approve or deny applications based on undue concentration of liquor licenses in census tracts, pursuant to Business and Professions Code (Chapter 6, Article 1, Section 23958 et seq.), and

WHEREAS, denial of certain types of applications are now appealable to the “local governing body” to consider recommending approval of the license “if public convenience or necessity would best be served”, and

WHEREAS, the Modesto City Council is the local governmental governing body to whom applicants requesting liquor licenses on premises in the City of Modesto may apply for a determination as to whether the public convenience or necessity would best be served by the issuance of such licenses at a requested location, and

WHEREAS, on February 27, 1996, by Resolution No. 96-84, the City Council adopted a policy entitled “Criteria for Variance to the ABC Standards”, which provides criteria and conditions governing the liquor license applications in the City of Modesto’s jurisdiction, as well as providing for review and decision by an Administrative Hearing Officer, and

WHEREAS, on June 11, 1996, by Resolution No. 96-332, the Council approved an amendment to said policy to include an Alcoholic Beverage Control Worksheet/Checklist, and

WHEREAS, Zakaria Kanno and Racheal Kanno filed an application with the Alcohol Beverage Control (ABC) Board for a new license, Type 20, which would authorize the sale of beer and wine only at American Gas, 1200 – 6th Street in Modesto, and

WHEREAS, on February 24, 2003, a hearing was conducted to review the merits of the application and to receive input from City staff, letters and comments from the community and testimony received from the applicant, after which it was concluded by the Administrative Hearing Officer that the issuance of the license for American Gas, 1200 – 6th Street did not meet established criteria, and said application was therefore denied, and

WHEREAS, by letter dated April 1, 2003, received by the City Clerk's Office from Racheal Kanno, an appeal was filed with the City Council, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on June 10, 2003, at 5:30 p.m., at which date and time said duly noticed public hearing was held, and

WHEREAS, after hearing evidence, both oral and documentary, the Council found and determined that said appeal should be granted,

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

The public convenience and necessity would be served by the issuance of the ABC Type 20 License as requested by the applicant for the following reasons:

- The surrounding area does not have any licenses of this specialized type.
- The applicant reports that many customers come into the business for the express purpose of purchasing beer and/or wine.
- The applicant submitted petitions signed by approximately 160 of the applicant's customers in support of the appeal.

BE IT FURTHER RESOLVED that the appeal of Zakaria Kanno and Racheal

Kanno for an off-sale retail beer and wine license for American Gas, 1200 – 6th Street in the City of Modesto, is hereby granted.

BE IT FURTHER RESOLVED that City Staff is hereby directed to file a request under separate cover with the ABC to restrict the applicant's license to prohibit single-unit sales.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

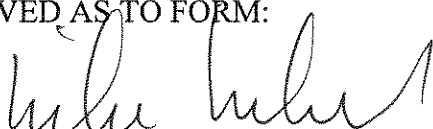
NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-289**

**A RESOLUTION AMENDING THE VILLAGE ONE FACILITIES
PRIORITIZATION LIST TO TRANSFER PROJECT SD-214 (LANDSCAPE
WEST BASIN) FROM PRIORITY 2 TO PRIORITY 1**

WHEREAS, on January 7, 2003, the City Council adopted the Village One Facilities Prioritization List ("Facilities Prioritization List") for projects remaining to be constructed in Village One and guidelines related thereto (Resolution No. 2003-20A), and

WHEREAS, the City Council has determined that Project SD-214 (Landscape West Basin) should be transferred from Priority 2 to Priority 1 on the Facilities Prioritization List, and

WHEREAS, the transfer of Project SD-214 from Priority 2 to Priority 1 will allow the Village One Community Facilities District to realize a savings of approximately \$123,119.73, and

WHEREAS, Resolution No. 2003-20A is hereby reaffirmed in every other respect and incorporated herein as though repeated in its entirety for the sake of administrative convenience,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Village One Facilities Prioritization List, attached hereto as **Exhibit "A"**, is hereby approved, transferring Project SD-214 (Landscape West Basin) from Priority 2 to Priority 1.

BE IT FURTHER RESOLVED that the following Facilities Prioritization List policy guidelines are hereby reaffirmed:

1. Until all projects within a higher priority, with Priority 1 being the highest priority, (i) have been constructed by Community Facilities District No. 1996-1 ("CFD"), (ii) have been constructed by a third party, pursuant to a contract executed with the CFD, and reimbursement has been paid to said third party, or (iii) funds have been reserved to construct the remaining projects within said priority, no projects within a lower priority shall be constructed by the CFD, no reimbursement shall be paid to a third party for construction of lower priority work and no funds shall be reserved for lower priority work.
2. A third party due reimbursement from the CFD, pursuant to an executed contract with the CFD, shall be placed in position, within a priority, based upon the date the Notice of Completion is issued for the work performed under said contract.
3. The City Council may, by subsequent action of the City Council, move a project or projects from one priority to another priority.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**Village One Projects (All or Partially Funded by the CFD)
Facilities Priority List
Priorities 1 & 2**

Updated per 6/10/03 Council Meeting

Priority 1 Facilities		
FMP #	Facility	Cost
SD-300	Bear Cub Lane, Kodiak Drive, Hillglen Avenue - West Basin and Ustach Park frontage	\$1,213,700.00
SD-201	West Basin fencing of lower tier	\$37,800.00
SD-202	West Basin Inlet Structures - 410' of 90" CIPCP, 50' of 48" RCP, 570' of 78" RCP, Inlet structure	\$753,800.00
SD-203	West Basin Inlet Structures - 110' of 66" RCP, Inlet structure	\$101,800.00
PK-003A	Ustach Park Phase 1 & 2 Park Construction	\$394,800.00
SD-204	West Basin forebay and low flow channel	\$54,000.00
SD-205	Hillglen Ave. 60" RCP from Roselle to Esta	\$608,700.00
SD-206	Central Basin Inlet Structures and energy dissipator (for 30" RCP and 24" FM)	\$108,000.00
SD-207	Force Main from West Basin to Central Basin (7000' of PVC FM (C-905) per CDM plan)	\$1,051,700.00
SD-209	West Basin Pump Station	\$507,600.00
SD-210	Central Basin Pump Station, FM to MID canal and completion of basin(maintenance road, low flow channel, etc.)	\$529,200.00
SD-211	Central Basin Property-Payback to SD fund	\$634,800.00
SD-214	Landscape West Basin per RHAA plan	\$1,501,200.00
INT-010	Sylvan & Roselle Intersection - Intersection Control & Road Widening	\$1,887,000.00
RD-002	Sylvan Avenue - South side in front of Symphony Park (requires condemnation of 2 homes) (ROW 02/03)	\$804,000.00
INT-009	Roselle & Floyd Intersection Control & Road Widening	\$2,065,000.00
RD-007	Floyd Avenue - North side between Oakdale and Roselle	\$4,111,000.00
RD-006	Pedestrian Overcrossing (Design 03/04)	\$1,542,000.00
RD-004A	Sylvan Avenue - South side between Roselle and Millbrook (ROW 03/04)	\$776,000.00
RD-004B	Sylvan Avenue - North side between Roselle and property line between Grogan Park and High School (ROW 03/04)	\$1,236,000.00
M-001A	Planning Recoup(1/4 of total)	\$189,750.00
Priority 1 Total:		\$20,107,850.00

Priority 2 Facilities		
FMP #	Facility	Cost
PK-005A	Merle Park Street Improvements (Half width along Park)	\$302,600.00
RD-008	Floyd Avenue - Full width between Roselle and Millbrook (not including Lawson property frontage)	\$1,944,000.00
RD-009	Floyd Avenue - Full width between Millbrook and Fine	\$2,788,000.00
SD-212	700' of 30" RCP from Merle to Central Basin (C-107 to basin)	\$99,200.00
SD-228	Merle Avenue - Central Basin frontage	\$129,600.00
INT-007	Roselle & Merle Intersection Control & Road Widening	\$275,000.00
RD-014	Roselle Ave.- Briggsmore to Merle (median closure)	\$23,000.00
PK-003B	Ustach Park Phase 3,4 & 5 Park Construction	\$225,000.00
SD-218	800' of 24"RCP (C-165 to C-109, CDM Report) Merle Park to Merle	\$90,700.00
SD-224	1100' of 36" RCP (W-107 to W-105, CDM Report) Kodiak	\$187,100.00
SD-225	1600' of 48" RCP (W-105 to W-101, CDM Report) Kodiak	\$362,900.00
SD-227	201' of 42" CIPCP at Floyd and Fine	\$40,700.00
SD-216	6 AC-ft Retention basin on Merle Park	\$67,500.00
INT-005	Oakdale & Floyd	\$1,442,000.00
PK-005B	Merle Park Phase 1 & 2 Park Construction	\$472,100.00
M-001B	Planning Recoup (1/4 of total)	\$189,750.00
Priority 2 Total:		\$8,639,150.00

**Village One Projects (All or Partially Funded by the CFD)
Facilities Priority List
Priorities 3, 4, 5 & 6**

Updated per 6/10/03 Council Meeting

Priority 3 Facilities		
FMP#	Facility	Cost
SD-213	East Basin Property Acquisition	\$1,500,000.00
SD-217	1200' of 36" RCP overflow line from Fine to Merle Park	\$204,100.00
PK-004A	Claus Park Street Improvements (Half width along Park)	\$415,100.00
RD-015	Roselle Avenue - between Sylvan & Floyd	\$3,203,000.00
INT-008	Roselle & Belharbour Intersection Control & Road Widening	\$685,000.00
PK-005C	Merle Park Phase 3,4 & 5 Park Construction	\$175,000.00
INT-004	Oakdale & Road G Intersection Control & Road Widening	\$747,000.00
INT-002	Sylvan & Litt Intersection Control & Road Widening	\$866,000.00
PK-004B	Claus Park Phase 1 & 2 Park Construction	\$375,800.00
INT-003	Sylvan & Aria Intersection Control & Road Widening	\$727,000.00
INT-011	Claus & Sylvan Intersection Control & Road Widening	\$685,000.00
M-001C	Planning Recoup (1/4 of total)	\$189,750.00
Priority 3 Total:		\$9,972,750.00

Priority 4 Facilities		
FMP #	Facility	Cost
RD-010	Floyd Avenue - Full width between Fine and Claus	\$1,889,000.00
RD-012	Oakdale Road - Widening between Floyd and Road G	\$1,142,000.00
RD-001A	Sylvan Avenue - South side between Oakdale Rd. and Wood Sorrell	\$1,370,000.00
RD-003	Sylvan Avenue - North side between Aria and Roselle	\$1,894,000.00
RD-001B	Sylvan Avenue - North side between Oakdale and Aria	\$1,472,000.00
RD-005	Sylvan Avenue - North Side between Litt and Claus	\$1,370,000.00
INT-001	Sylvan & Oakdale	\$2,414,000.00
RD-013	Oakdale Road - Road G to Sylvan	\$1,007,000.00
INT-006	Oakdale and Briggsmore modification	\$84,000.00
M-001D	Planning Recoup (1/4 of total)	\$189,750.00
RD-011	Oakdale Road - Briggsmore to Floyd	\$35,000.00
Priority 4 Total:		\$12,866,750.00

Priority 5 Facilities		
FMP#	Facility	Cost
RD-016	Roselle Avenue - Full width between Sylvan to northern City limit (high school will do some of these improvements)	\$2,057,000.00
SD-219A	East Basin Construction	\$2,025,000.00
SD-219B	East Basin Landscaping	\$2,352,200.00
SD-215	7 AC-ft Retention basin on Grogan Park	\$81,000.00
SD-220	Claus Rd. trunk line from Floyd to East Basin	\$2,700,000.00
SD-223	850' of 30" RCP (W-21 - W-22, CDM Report) Hillglen	\$120,500.00
SD-221	East Basin Pump Station and completion of basin	\$540,000.00
PK-001A	Grogan Park Phase 1 & 2 Park Construction	\$6,051,300.00
PD-001	Police Substation - Tenant Improvements	\$27,500.00
SD-229	Force Main from East Basin to Claus Rd. line	\$135,000.00
SD-222	Force Main from Central Basin to Claus Rd. line	\$540,000.00
Priority 5 Total:		\$16,629,500.00

Priority 6 Facilities (Unlikely To Be Funded From CFD)		
FMP#	Facility	Cost
	Claus Road -Gas Line Relocation	CFF
PK-001B	Grogan Park Phase 3 & 4 Construction	\$4,131,500.00
PK-007	Claus Urban Expressway Trail	\$3,628,600.00
M-002	Monumentation & Signage	\$500,000.00
PK-006	Bike Trail - MID Lat. #3	\$1,479,100.00
PK-002	Buffer	\$213,100.00
Priority 6 Total:		\$9,952,300.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-290**

**A RESOLUTION APPROVING CONSOLIDATION OF CIP PROJECT Q316
(SD-214, LANDSCAPE WEST BASIN) INTO CIP PROJECT Q302 (SD-203,
VILLAGE ONE STORM DRAIN IMPROVEMENTS)**

WHEREAS, the City Council is desirous of consolidating CIP Project Q316 into CIP Project Q302, and

WHEREAS, the engineering/design budget for CIP Project Q316 has already been established, and

WHEREAS, appropriation from the Village One One-Time Facilities Reserves fund is needed to fully fund CIP Project Q316,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following appropriation is hereby approved to consolidate CIP Project Q316 into CIP Project Q302 and to fully fund CIP Project Q302:

Appropriations

FROM:	2600-020-Q316-6010	\$ 111,000.00
	2600-800-8000-8408	\$1,390,000.00
TO:	2600-020-Q302-6040	\$1,112,000.00
	2600-020-Q302-6010	\$ 111,000.00
	2600-020-Q302-6050	\$ 167,000.00
	2600-020-Q302-6060	\$ 111,000.00

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-291**

**A RESOLUTION AWARDDING THE BID AND APPROVING A \$2,747,029
CONTRACT WITH T & S CONSTRUCTION CO., INC., FOR THE PROJECT
TITLED "VILLAGE ONE STORM DRAINAGE IMPROVEMENTS"**

WHEREAS, the bids received for the VILLAGE ONE STORM DRAINAGE IMPROVEMENTS project were opened at 11:00 a.m. on May 20, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$2,747,029 received from T & S CONSTRUCTION CO., INC., be accepted as the lowest responsible bid and the contract be awarded to T & S CONSTRUCTION CO., INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$2,747,029, and hereby awards T & S CONSTRUCTION CO., INC., the contract titled "VILLAGE ONE STORM DRAINAGE 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 10th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-292**

A RESOLUTION AWARDED A CONTRACT TO MARTIN & CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES TO CONDUCT THE DECEMBER 9, 2003 CITY COUNCIL RUN-OFF ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF \$127,139.42, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, at the January 7, 2003 City Council Meeting, the City Council directed the City Clerk to solicit Requests for Proposals for vendors to provide election services for the December 9, 2003 run-off election and prepare for the failure of the Charter Amendment in the November election; and,

WHEREAS, proposals were issued on April 5, 2003 to those vendors who are approved by the Secretary of State to manufacture, finish and print ballot cards for use in California elections; and

WHEREAS, proposals were also issued to two local vendors; and

WHEREAS, an advertisement was placed in the Modesto Bee and the proposal was posted on the City of Modesto website; and

WHEREAS, the City received proposals from two different vendors; and

WHEREAS, Martin & Chapman has agreed to provide the services outlined in **Exhibit "A"** attached hereto and incorporated herein by reference in the amount of \$127,139.42, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of a contract to Martin & Chapman for professional services to conduct the December 9, 2003 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 10th day of June, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Keating, Frohman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MUNICIPAL RUNOFF ELECTION
TUESDAY, DECEMBER 9, 2003

Quantity	Part No.	Description	Unit Price	Total
MAIL BALLOT SUPPLIES				
119,000	441	Outgoing Absent Voter Envelopes	\$0.09	\$10,710.00
119,050	451	Identification/Return Absent Voter Envelopes	\$0.09	\$10,714.50
119,000	461	Gray/Secrecy Envelopes	\$0.07	\$8,330.00
200	462	Correction Identification/Return Absent Voter Envelopes	\$0.35	\$70.00
CANVASSING SUPPLIES				
1	602	Absent Voter Canvass Set		\$42.00
35	612	"Voted Ballots" Red Boxes for voted absentee ballots	\$3.00	\$105.00
35	613	Red Box Seals	\$0.25	\$8.75
REPORTS AND LABELS				
117,258	1022	Address Labels / 29 day labels		\$6,062.90
100	1023	Address Labels / 15 day labels		\$205.00
117,258	1041	Absent Voter Program / Active and Inactive Voters		\$4,604.03
VOTER INFORMATION PAMPHLETS				
120,000	2110	Pamphlets / 10 pages		\$28,500.00
	2173	(includes candidate statements)		
OFFICIAL BALLOTS AND SUPPLIES				
119,000	3201	Official Ballots - 1 side / Opto-Mark		\$23,355.00
200	3610	Test / Duplicate Ballots	\$25.00/C	\$50.00
BALLOT COUNTING / ELECTION NIGHT SUPPLIES				
1	3802	Election Night Supply Box	\$35.00	\$35.00
1	3805	Ballot Counter Rental w/ 2 Operators / Opto-Mark	\$5,000.00	\$5,000.00
SUBTOTAL				
			Subtotal / Taxable Items	\$97,792.18
			Sales Tax	0.07375
				\$7,212.17
				\$105,004.35
MAILING SERVICES				
1	5000	29 Day File transfer to mailer	\$100.00	\$100.00

Quantity	Part No.	Description	Unit Price	Total
117,258	5002	Affixing Polling Place /Address Labels	\$0.04	\$4,690.32
1	5000	15 Day File transfer to mailer	\$50.00	\$50.00
100	5004	Affixing Polling Place /Address Labels	\$0.50	\$50
117,358	5005	Inserting Election materials into Outgoing Envelopes		\$14,769.
DELIVERY SERVICES				
1	5010	Deliver Mail To Post Office	\$300.00	\$300.00
MISCELLANEOUS SERVICES				
	6000	Travel Expenses / 2 people / 2 days - estimated		\$1,000.00
1	6275	Rental of Barcode Scanner for PC Absentee Program	\$100.00	\$100.00
TRANSLATIONS				
		1 Ballot(s), 6 Candidates Statements		
7	8001	Spanish Translations	\$150.00	\$1,050.00
POSTAGE ACTIVITY				
100	9012	Affix Meter Tape 1st class Postage to Pamphlets-15 day	\$0.25	\$25.00
		Total Nontaxable Items		\$22,135.07
		TOTAL DUE THIS INVOICE		\$127,139.42
		TERMS NET 30 DAYS / 1.5% PER MONTH THEREAFTER		
Note: this estimate DOES NOT include the following:			Estimated Costs	
ALL MAIL BALLOT ELECTION				
117,358		Estimated Outgoing Postage/Ballots& Pamphlets	\$ 0.17	\$ 19,950
70,415		Estimated Return Postage for Absentees if using Business Reply Mail, estimated @ 60% returned	\$ 0.40	\$ 28,165.92
		Registrar of Voters charges for Voter files		unknown
		Registrar of Voters charges for county checking signatures		unknown
		Publication of Notices charges		unknown

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-293**

**A RESOLUTION ACCEPTING THE ECONOMICS RESEARCH
ASSOCIATES MANAGEMENT AUDIT OF THE CITY OF
MODESTO GOLF FACILITIES.**

WHEREAS, the City of Modesto engaged Economics Research Associates to prepare a Management Audit of the City of Modesto Golf Program in 1998, and

WHEREAS, the Modesto golf market has financially declined in the five years since the Economics Research Associates audit was completed, and

WHEREAS, in order to minimize the impact to the General Fund and to maximize the City's investment in the Golf Program's infrastructure, a re-examination of the management options presented in the 1998 report was needed, and

WHEREAS, at its February 3, 2003 meeting, the Safety & Communities Committee supported the recommendation to authorize staff to enter into negotiations with Economics Research Associates to re-examine options for the City of Modesto Golf Program, and

WHEREAS, on February 25, 2003, the City Council adopted Resolution 2003-92 which authorized staff to negotiate an agreement with Economics Research Associates to reexamine options for the City of Modesto Golf Program at a cost not to exceed \$20,000, and

WHEREAS, at its March 31, 2003 meeting, the Safety & Communities Committee considered an update on the agreement reached with Economics Research Associates to provide a Management Audit of the Modesto Golf Courses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Economics Research Associates' Management Audit of The City of Modesto Golf Facilities.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-294**

**A RESOLUTION AUTHORIZING CITY STAFF TO ENTER INTO
NEGOTIATIONS WITH VALLEYCREST AND FM GOLF AND TO EXERCISE
CITY'S RIGHT TO EXTEND CONTRACTS AS OF JUNE 30, 2003**

WHEREAS, the City of Modesto is currently contracting with ValleyCrest for golf maintenance services and FM Golf for golf operations, and

WHEREAS, the current contracts with ValleyCrest and FM Golf are due to expire on June 30, 2004, and

WHEREAS, the City of Modesto has the sole and exclusive right to offer to extend these agreements for an additional five (5) year period, and

WHEREAS, the City of Modesto must give written notice to Valley Crest and FM Golf at least three hundred sixty-five (365) days prior to the expiration of the initial term of these agreements to either begin negotiations leading to a possible five-year extension or to advise of termination at the expiration of the existing contract, and

WHEREAS, at its February 3, 2003 meeting, the Safety & Communities Committee recommended that the City Council direct staff to meet with Valley Crest and FM Golf to determine if more favorable agreements can be negotiated with these primary contractors, and

WHEREAS, on February 25, 2003, the City Council by motion directed staff to meet with Valley Crest and FM Golf to determine if more favorable agreements could be negotiated, and

WHEREAS, a Management Audit of the City golf courses by Economics Research Associates in May, 2003, suggests the existing contracts are cost-effective and that the City of Modesto's ability to significantly improve its existing contracts is unlikely, and

WHEREAS, at their June 2, 2003 meeting, the Safety & Communities Committee supported staff's recommendation to enter into negotiations and to exercise City's right to offer to extend agreements with Valley Crest and FM Golf as of June 30, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to enter into negotiations and to exercise City's right to offer to extend agreements with Valley Crest and FM Golf as of June 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM.
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-323**

**A RESOLUTION FINDING "UNITED CABLE/COMCAST" TO BE IN
MATERIAL BREACH OF THE CABLE TELEVISION FRANCHISE AND
IMPOSING PENALTIES.**

WHEREAS, United Cable Television Corporation, a subsidiary of Comcast (hereinafter "United Cable/Comcast") holds a cable television franchise in the City of Modesto, and

WHEREAS, on May 14, 2003, the City Manager issued a Notice of Breach of the Comcast's Cable Television Franchise based on United Cable/Comcast's failure to complete the grounding corrections within the time provided for in the Franchise Documents, and

WHEREAS, on June 24, 2003, the City Council held a noticed public hearing on whether United Cable/Comcast was in breach of its obligation to complete the grounding corrections on or before March 14, 2003 as required under the Franchise Documents, and to determine the appropriate remedy for such breach, and

WHEREAS, the City Council has considered all of the testimony, both oral and written, received by the City Council at or before the hearing on June 24, 2003,

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

SECTION 1. FINDINGS; MATERIAL BREACH OF THE CABLE TELEVISION FRANCHISE. The City Council hereby finds and determines, based on the evidence submitted at the hearing and on the staff report, which is incorporated herein, that United Cable/Comcast is in material breach of its obligation to correct the grounding of the cable system as required by the Franchise Documents.

a. Franchise Documents. As used in this Resolution, the "Franchise Documents" include the following: the Settlement Agreement between Cable One and the City of Modesto dated February 13, 2001; Ordinance No. 3203-C.S. approving the transfer of the cable television franchise from Cable One to United Cable Television Corporation; the Certificate of Acceptance of the Transfer executed by United Cable Television Corporation on March 7, 2001; the Franchise Ordinance (Article 11, Chapter 4 of the City Municipal Code, as amended) the Franchise Renewal Agreement, as adopted by Ordinance No. 3223-C.S., and the Certificate of Acceptance of the Franchise Renewal dated June 11, 2001), Resolution No. 2002-299, approving the change in control by reason of the merger of AT&T Broadband and Comcast; and the Certificate of Acknowledgment of the Approval of the Change of Control executed by AT&T Comcast.

b. In reaching its determination that United Cable/Comcast is in material breach of the Franchise, the Council makes specific reference to the following:

1. The current franchisee is United Cable Television Corporation ("United Cable"). United Cable was a subsidiary of AT&T Broadband when United Cable acquired the Modesto cable franchise on March 7, 2001. On November 18, 2002, by reason of the merger of AT&T Broadband and Comcast, United Cable became a subsidiary of AT&T Comcast, now known as Comcast.

2. Ordinance No. 3203-C.S. approving the transfer from Cable One to United Cable provides, in pertinent part:

"AT&T Broadband [United Cable] acknowledges that failure to perform these improvements and corrections [including grounding] within the times set forth in the settlement agreement shall constitute a material breach of the franchise. (Id. at Section 2.F.)

"AT&T Broadband [United Cable] agrees to complete, within the times set forth on Exhibit D, the grounding requirements set forth on Exhibit D." (Id. at Section 4.3.)

Exhibit D to Ordinance No. 3203-C.S. sets forth the requirements for grounding and the times for grounding. Exhibit D further establishes the methodology for the verification inspection to determine if the grounding corrections have been completed as required by Ordinance No. 3203-C.S.

3. The Certificate of Acceptance of the Franchise executed by United Cable states that United Cable:

" unconditionally, irrevocably, and without reservation accepts the Cable Television Franchise. . . . including Ordinance No 3203-C.S."

"Covenants and promises to faithfully undertake and perform each and every promise, covenant, commitment and undertaking contained in the Franchise Ordinance;

"Expressly declares and agrees to comply with each and every term, condition, and agreement contained in Ordinance No 3203-C.S., approving the transfer of control."

4. Under the terms of Ordinance No. 3203-C.S. Exhibit D, United Cable was required to inspect all drops to determine grounding code compliance status. United Cable was to deploy scheduled crews to inspect, make code corrections as necessary, and add tracking codes to its subscriber management system. All phases on the grounding corrections and repairs were to be complete within 24 months of the transfer date. At the time of completion, the City was to conduct a statistically accurate (+/- 3%) verification inspection. Completion of the grounding repairs required demonstration of 90% compliance.

5. The transfer date for the Cable One to United Cable transfer was March 7, 2001.

6. Throughout the correction period, United Cable/AT&T Broadband provided written and verbal progress reports to the City that indicated that the grounding project was underway and was on or ahead of schedule for completion by March 2003.

7. Resolution 2002-299 approving the change in control by reason of the merger of AT&T Broadband and Comcast provided that:

"F. Nothing in this Resolution or in the City's consent to this change in control shall be construed, in any manner whatsoever, by AT&T Broadband, AT&T Comcast, or any of the subsidiaries of AT&T Comcast, as precluding or impacting the City's ability or authority to address any act(s) of noncompliance by Franchisee or failure(s) to act by Franchisee, pursuant to the terms of the Franchise Agreement and the Franchise Ordinance. In particular, and without limiting the forgoing, Franchisee, in acquiring the cable system in Modesto, as part of the transfer approval from Cable One, and incorporated in the Franchise Agreement, agreed as follows:

"AT&T Broadband has acknowledged and agreed that, pursuant to the settlement agreement between Cable One and the City, the transfer ordinance approving the transfer to AT&T Broadband and the franchise Renewal Agreement, AT&T Broadband was and is currently required to perform certain physical improvements and corrections, and that these improvements and corrections were a condition of the Cable One/AT&T Broadband transfer and are binding on AT&T Broadband. AT&T Broadband has acknowledged that failure to perform these improvements and corrections within the times set forth in the settlement agreement shall constitute a material breach of the franchise. Execution and delivery of the certificate of acceptance of the franchise by AT&T Broadband constituted its agreement to be bound to this condition and to the terms of this Resolution, and the Franchise Agreement including, without limitation, the conditions requiring physical improvements and corrections to the cable system."

8. The Certificate of Acknowledgment of the approval of the change of control by reason of the merger of AT&T Broadband and Comcast acknowledges that the change in control does not "affect, diminish, impair or supercede the binding nature of the commitments of United Cable" and that AT&T Comcast "will use its best efforts to ensure that the Franchisee complies with its obligations under the Franchise Documents." (Section 1)

9. The City Council finds that the merger and change in control does not provide an excuse or reason for any extension in the time for compliance with the grounding obligations.

10. Kramer.Firm, Inc. conducted the verification inspection in late March and early April 2003. A copy of the report of this inspection is on file with the City Clerk and was provided to Comcast and to the City Council. The results of the inspection showed that only 71.3333% of the locations inspected were grounded in compliance with grounding requirements of the City's Municipal Code adopting the National Electrical Code rather than the required 90%. Therefore, Comcast has not demonstrated compliance with the grounding requirement.

11. Based on the foregoing, the City Council hereby finds United Cable/Comcast in material breach of the Franchise by reason of its failure to complete the required grounding corrections in the manner and within the time set forth on Exhibit D of Ordinance 2303-C.S.

SECTION 2. PUBLIC SAFETY. The City Council further finds and determines that the grounding corrections are required for the public health and safety. Grounding of the cable system is required by the National Electrical Code, adopted by

the City into its Municipal Code. Two sections from the National Electrical Code Handbook (2002 ed.), which the City uses for guidance, are particularly helpful to understand why the City takes this matter so seriously:

NEC Handbook Commentary for Section 250-94:

For example. . . assume that a current is induced in the power line by a switching surge or a nearby lightning strike, so that a momentary current of 1000 amperes flows over the power line to the power-line ground. ***This amount of current is not unusual under such circumstances. The amount could be, and often is, considerably higher.*** Also assume that the power ground has a resistance of 10 ohms. . . (Emphasis added.)

. . . the current flowing through the equipment connected to electrical system will be raised momentarily to a potential of 10,000 volts (1000 amperes × 10 ohms). This potential of 10,000 volts would exist between the CATV system and the electrical system and between the grounded conductor within the CATV cable and the grounded surfaces in the walls of the home, such as water pipes (which are connected to the power ground), over which the cable runs. ***This potential could also appear across a person with one hand on the CATV cable and the other hand on a metal surface connected to the power ground (e.g., a radiator or refrigerator).*** (Emphasis added)

Actual voltage is likely to be many times the 10,000 volts calculated, because extremely low (below normal) values were assumed for both resistance to ground and current. Most insulation systems, however, are not designed to withstand even 10,000 volts. Even if the insulation system does withstand a 10,000-volt surge, it is likely to be damaged and breakdown of the insulation system will result in sparking. (Emphasis added.)

...

NEC Handbook commentary for Section 820.40(D):

Proper bonding of the CATV system coaxial cable sheath to the electrical power ground is needed to prevent potential fire and shock hazards.

...

If an individual is the interface between the two systems and the bonding has not been done in accordance with the Code, the high-voltage surge could result in electric shock. More common, however, is burnout of the television tuner because this part is almost always an interface between the two systems. The tuner is connected to the power system ground through

the grounded neutral of the power supply, even if the television itself is not provided with an equipment grounding conductor. (Emphasis added.)

There are additional provisions of the NEC Handbook that further illustrate the public safety nature of the grounding requirement. In Ordinance No. 3203-C.S., the City provided for a lengthy period of time to bring the cable system into compliance with the City's grounding requirements. All persons doing business within the City of Modesto are required to comply, when applicable, with the City's Municipal Code adopting the National Electrical Code and other safety codes for the safety of the public and property. Pursuing compliance with public safety codes is a necessary and important for the safety of the City and its residents and property.

SECTION 3. REMEDIES AND TIME FOR CORRECTION.

A. The City Council further finds and determines that the remedies for material breach of the franchise include, but are not limited to:

1. termination or revocation of the franchise;
2. correction or cure of the material breach;
3. monetary penalties for each deficiency of up to \$5,000 plus \$100 per day for each day that the deficiency continues;
4. specific performance, damages and other remedies at law or in equity.

These remedies are not exclusive and may be pursued in combination as the City Council determines is appropriate.

B. The City Council hereby orders the following to provide an adequate and reasonable remedy for material breach of the franchise:

1. United Cable/Comcast shall correct the grounding so that it will pass the verification inspection as set forth on Exhibit D of Ordinance 3203-C.S. in the shortest possible time.

2. United Cable/Comcast shall pay the following penalties and damages for material breach of the franchise. Such penalties and damages shall accrue on a daily basis beginning on May 14, 2003 (the date of the Notice of Breach) until the grounding corrections are complete and a verification inspection determines that the work is complete as set forth on Exhibit D to Ordinance No. 3203-C.S.

The sum of \$5,000 plus \$1.00 per day per deficiency beginning May 14 through June 30 is \$1,079,192 and is due on July 1. An additional fine of \$1.10 per deficiency shall be accrued on a daily basis during the months of July and August, 2003, and shall be due and paid on the first day of each following month. For each subsequent two month period the fine shall be increased by \$.10 per day per deficiency and shall be due and paid monthly on the first business day each following month. Each non-compliant grounding location is a separate deficiency. Based on the Kramer.Firm report and a total of 78,069 cable locations in the City, as of the date of this Resolution there are 22,379 non-compliant grounding locations.

The City Manager may reduce the penalty amount if United Cable/Comcast can demonstrate, based on statistically accurate (+/-3%) inspections, that the grounding in a designated phase has been completed, as required by Exhibit D, thereby reducing the total number of drops that are out of compliance with grounding requirements.

3. The City Council finds and determines that this is a reasonable and adequate penalty in that it is of sufficient size, in light of the estimated revenue of the cable operator, to constitute a penalty, without being confiscatory; it will provide an incentive to complete the grounding corrections as accurately and expeditiously as possible; the Franchise Documents were explicit and the cable franchisee specifically stipulated that failure to correct the grounding within 24 months from the date of the Cable One to United Cable transfer would constitute a material breach and the material breach is directly related to the public health and safety.

4. The City Manager, in consultation with the City Attorney and special legal counsel, is hereby authorized to notify the surety company of the material breach of the Franchise, to make a demand on the Performance Bond, and/or to call the Letter of Credit, at the time and in the manner that the City Manager and the City Attorney deem appropriate.

5. In addition to and not as an offset against all other fines or charges described above, the Franchisee, United Cable/Comcast shall pay for the City's costs and expenses of enforcement and inspections to assure that the work required to complete the grounding requirements is completed in accordance with Ordinance 3203-C.S. the Franchise Documents and this Resolution. (Ordinance No. 3203-C.S. Section 4, No. 5), including, but not limited to, the costs and expenses for re-inspections and City staff and legal expenses.

6. The City Attorney is authorized and directed to file an injunction action against United Cable/Comcast to require it to remove all facilities and connections that are not properly grounded in order to eliminate the threat to public

safety. The City Council reserves the right to initiate additional legal action at a later date to pursue alternative remedies for the material breach of the franchise.

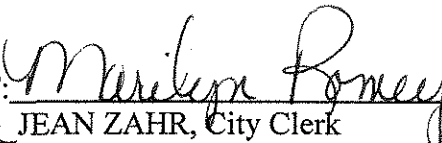
SECTION 4. APPROPRIATION OF CITY FUNDS. Funds of \$100,000 will be transferred from the Cable One settlement account #0100-800-8000-8003 to the cable and technology account #0100-020-0219-8129.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

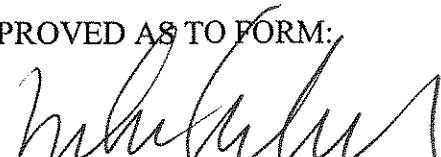
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-295**

A RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 4, 2003 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.

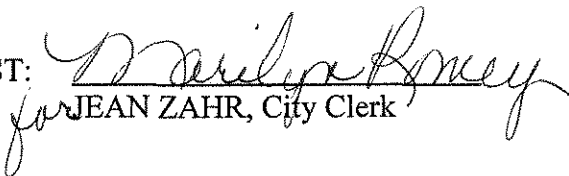
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that candidates for election in the Regular Municipal Election to be held on November 4, 2003 shall be required to pay a \$500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-296**

**A RESOLUTION INDICATING THE CITY COUNCIL'S INTENTION TO
CONDUCT THE DECEMBER 9, 2003, RUN-OFF ELECTION, IF NEEDED, BY
MAIL**

WHEREAS, in the event the proposed Charter amendment placed on the November 4, 2003 Municipal Election that would move the City's run-off election from December of odd-numbered years to March of even-numbers years is not approved by the voters, and no candidate is elected by a majority in that election, the two candidates receiving the most votes will run against one another in a December run-off election; and

WHEREAS, the County Clerk Recorder has stated she is unable to conduct the City's run-off in December 2003, and;

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 2, 2003, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City issued a Request for Proposals for election services to assist the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, after the bid opening conducted on May 6, and after staff evaluation in determining the most responsive bidder, the City has entered into an agreement with Martin and Chapman for election services for a cost of \$127,139; and

WHEREAS, the City Council must indicate its intention to conduct the December 9, 2003 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 4, 2003 said run-off election shall be held by mail and scheduled on December 9, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-297**

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF MODESTO, COMMUNITY FACILITIES DISTRICT NO. 1996-1 (VILLAGE ONE) AND LING INVESTMENTS, A CALIFORNIA LIMITED PARTNERSHIP, FOR THE PAYMENT OF UNPAID WATER CONNECTION FEES AND UNDERPAID ONE-TIME SPECIAL FACILITIES TAXES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT

WHEREAS, staff determined that the Opera House project underpaid its one-time special facilities taxes by \$76,654.78 (Underpaid Taxes) and its water connection fees by \$24,329.00 (Unpaid Water Fees), and

WHEREAS, the Jaguar/Opera House Partnership LP that originally developed the Opera House project has dissolved, and

WHEREAS, the eight (8) lots remaining to be developed in the Opera House project are owned by Ling Investments, a California Limited Partnership, ("Ling"), and

WHEREAS, the City of Modesto and Ling agree to discount the Unpaid Water Fees by twenty-five (25%) percent with Ling to pay the amount of \$18,246.75 for Unpaid Water Fees, and

WHEREAS, the City of Modesto, Community Facilities District No. 1996-1 (Village One) and Ling have reached an agreement whereby the Underpaid Taxes and the Unpaid Water Fees will be spread equally over the eight (8) lots remaining to be developed in the Opera House project,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Settlement Agreement between the City of Modesto, Community Facilities District No. 1996-1 (Village One) and Ling Investments, a California Limited

Partnership, for the payment of underpaid one-time special facilities taxes in the amount of \$76,654.78 and unpaid water connection fees in the amount of \$18,246.75 is hereby approved.

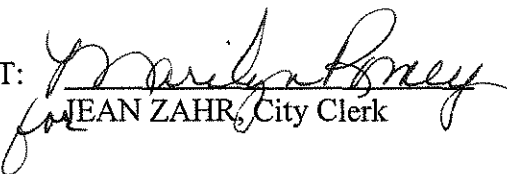
BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(Seal)

APPROVED AS TO FORM

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-298**

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING FOR PRELIMINARY WORK TO ASSIST IN THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED KAISER MEDICAL CAMPUS PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$130,793.00

WHEREAS, Kaiser Permanente has applied for an amendment to the Kiernan Business Park Specific Plan, rezoning to a planned development zone, a development agreement, annexation and sphere of influence amendment to allow a 1.2 million square-foot medical campus located on the west side of Dale Road north of Bangs Avenue (Kaiser medical campus), 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 Kaiser medical campus project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting to prepare the environmental impact report for the Kaiser medical campus because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City Staff anticipates that the EIR work will involve three contract phases, the first phase being the current contract for preliminary work leading to the EIR in an amount not to exceed \$130,793 and

WHEREAS, City staff will be returning to Council for contract amendments for the second and third phases of work for preparation of the Draft EIR and Final EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Turnstone Consulting for preliminary work to assist in the preparation of an environmental impact report for the proposed Kaiser medical campus be in an amount not to exceed \$130,793, and it is, hereby approved.

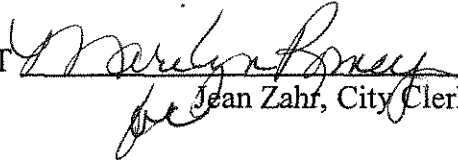
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

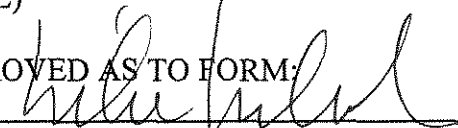
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST 
Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:
BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-299**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT
WITH WEST YOST AND ASSOCIATES (WYA) IN THE AMOUNT OF \$92,500
FOR ADDITIONAL UNFORESEEN WORK IN DEVELOPING THE DETAILED
WATER SYSTEM HYDRAULIC MODEL**

WHEREAS, on July 23, 2002, the City Council approved a professional services agreement with West Yost and Associates to prepare the Water System Hydraulic Model Update and Associated System Analysis (Study), and

WHEREAS, the Study will perform critical infrastructure planning tasks, including identifying improvements for existing and future services and identifying improvements needed for the Modesto Regional Water Treatment Plant (MRWTP) planned expansion, and

WHEREAS, additional work efforts are needed for the Study in the amount of \$92,500 to develop the detailed water system hydraulic model including pipe by pipe data checks and resolving land use and population projection inconsistencies, and

WHEREAS, this amendment to agreement, identifying additional work efforts for an amount of \$92,500, will enable the Study to proceed as planned with the remaining tasks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with West Yost Associates in the amount of \$92,500 for additional services for the Study.

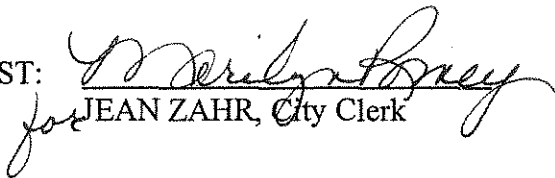
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-300**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO
1) APPROPRIATE \$64,750.00 FROM THE WATER ENTERPRISE RESERVE
FUND 6100-800-8000-8003 TO 6100-430-N639-6010-13; 2) APPROPRIATE
\$22,200.00 FROM THE WATER ENTERPRISE RESERVE FUND 6150-800-8000-
8003 TO 6150-430-N637-6010-13; 3) APPROPRIATE \$5,550.00 FROM THE
WATER ENTERPRISE RESERVE FUND 6160-800-8000-8003 TO 6160-480-Q225-
6010-13**

WHEREAS, on July 23, 2002, the City Council approved a professional services agreement with West Yost and Associates to prepare the Water System Hydraulic Model Update and Associated System Analysis (Study), and

WHEREAS, the Study will perform critical infrastructure planning tasks, including identifying improvements for existing and future services and identifying improvements needed for the Modesto Regional Water Treatment Plant (MRWTP) planned expansion, and

WHEREAS, additional work efforts are needed for the Study in the amount of \$92,500 to develop the detailed water system hydraulic model including pipe by pipe data checks and resolving land use and population projection inconsistencies, and

WHEREAS, this budget augmentation, for an amount of \$92,500 for a total revised Study cost of \$388,900, will enable the Study to proceed as planned with the remaining tasks, and

WHEREAS, the Water Enterprise Reserve Fund has sufficient funds to cover the additional amount of \$92,500,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Budget to 1) appropriate \$64,750.00 from Water Enterprise Reserve Fund 6100-800-8000-8003 to 6100-430-N639-6010-13; 2) appropriate \$22,200.00 from Water Enterprise Reserve Fund 6150-800-8000-8003 to 6150-430-N637-6010-13; 3) appropriate \$5,550.00 from Water Enterprise Reserve Fund 6160-800-8000-8003 to 6160-480-Q225-6010-13.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Budget.

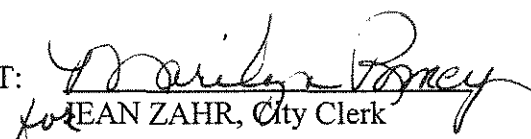
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

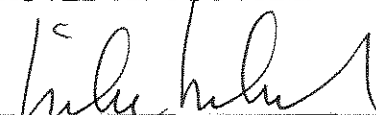
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 301**

A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION FOR A SMALL COMMUNITY AIR SERVICE PROGRAM GRANT IN THE AMOUNT OF \$872,500 TO THE DEPARTMENT OF TRANSPORTATION FOR AN AIRLINES STARUP INCENTIVE PROGRAM, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNATED REPRESENTATIVE, TO EXECUTE NECESSARY DOCUMENTS

WHEREAS, Congress recently approved funding in their FY 2003 Omnibus Bill for the Small Community Air Service Development Program, and

WHEREAS, Communities that will be considered eligible for funding must either have insufficient air service or have unreasonably high airfares, and

WHEREAS, the Modesto City County Airport meets the Department of Transportation's definition of a small community that is lacking adequate air service and has unreasonably high airfares, and

WHEREAS, City Staff has prepared an application that encourages the formation of a public-private consortium of market area businesses and organizations, and staff is encouraging a community base support of a local match in the amount of \$191,000 for the grant, and

WHEREAS, the application recommends a Regional Carrier to provide daily direct service to Los Angeles International Airport and recommends a Charter Carrier to provide service to Las Vegas on a four-times a week schedule, and

WHEREAS, the recommended Regional Carrier has provided the City with their letter supporting the City application and service between Modesto and Los Angeles International Airport, and efforts are still underway to get the Charter Carrier's support, and

WHEREAS, City Staff has requested and expects to receive letters of support from community businesses and organizations that will become part of the City application, and

WHEREAS, the Council's Economic Development Community endorsed the Small Community Air Service Program concept, and approved the preparation of a City application at its April 7, 2003 meeting,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Modesto that it hereby authorizes the submittal of an application in the amount of \$872,500 to the Department of Transportation for a Small Community Air Service Development Program grant.

BE IT FURTHER RESOLVED, that the Council authorizes the City Manager or his designated representative to submit the application, and execute 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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:


AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:
by 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-302**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR THE
DISCHARGE OF STORM DRAINAGE WATER FROM THE KANSAS-
NEEDHAM STORM DRAINAGE BASIN TO LATERAL NO. 4**

WHEREAS, the City of Modesto is desirous of developing a positive storm drainage system in the downtown area, and

WHEREAS, the Modesto Irrigation District (MID) owns the property known as Lateral No. 4, and

WHEREAS, the Modesto Irrigation District has agreed to allow the discharge of storm drainage water from Kansas-Needham basin into Lateral No. 4,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and the Modesto Irrigation District for the discharge of storm drainage water from the Kansas-Needham Basin to Lateral No. 4 is hereby approved.

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 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: *Marilyn Pomey*
for JEAN ZAHR, City Clerk

(SEAL) *[Signature]*
By: MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-303**

**A RESOLUTION AMENDING THE FY02-03 CAPITAL IMPROVEMENT
BUDGET TO APPROPRIATE \$193,680.00 FROM 1350-800-8000-8003 TO 1350-
310-Q200-9628**

WHEREAS, the bids received for the USTACH NEIGHBORHOOD PARK project were opened at 11:00 a.m. on June 3, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate Resolution that the bid of \$1,038,900 be accepted as the lowest responsible bid and Finance has determined that there is \$1,053,000 available for this project in FY02-03 Capital Improvement Project, and

WHEREAS, the need for \$193,680.00 to fully fund construction of the improvements for this project has been identified, and

WHEREAS, the City of Modesto's Parks, Recreation and Neighborhoods Department has identified \$193,680.00 for this project to be paid from CFF Reserves 1350-800-8000-8003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY02-03 Capital Improvement Budget to appropriate \$193,680 from 1350-800-8000-8003 to 1350-310-Q200-9628.


BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary action to amend the FY 02-03 Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-304**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$1,038,900.00
CONTRACT WITH GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR
THE PROJECT TITLED "USTACH NEIGHBORHOOD PARK" AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the bids received for the USTACH NEIGHBORHOOD PARK project, were opened at 11:00 a.m. on June 3, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$1,038,900.00 received from Goodland Landscape Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Goodland Landscape Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Goodland Landscape Construction, Inc., in the amount of \$1,038,900.00, and hereby awards Goodland Landscape Construction, Inc., the contract titled "USTACH NEIGHBORHOOD PARK" for \$1,038,900.00.

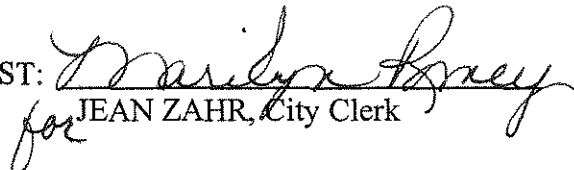
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-305**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BID (RFB) FOR A SCREEN WASHER COMPACTOR**

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) is requesting the purchase of a screen washer compactor, and

WHEREAS, a screen washer compactor is a machine used to wash and compact all of the waste that is collected from the primary WQC plant influent bar screens in preparation for landfill, and

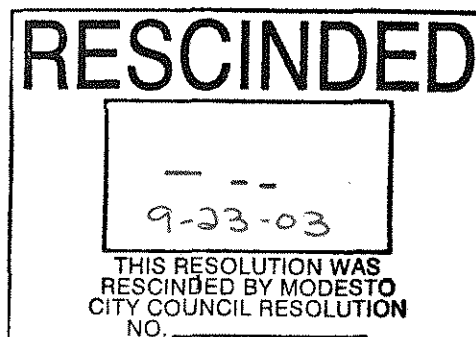
WHEREAS, this machine greatly reduces the volume of waste by approximately 60% by washing organic matter out of the trash putting it back into the treatment process, and

WHEREAS, by using a screen washer compactor in our wastewater process, it will greatly reduce landfill disposal costs, and

WHEREAS, this process also benefits the citizens of Modesto by reducing odors from the WQC plant as well as reducing disposal costs.

WHEREAS, by soliciting competitive bids for a screen washer compactor, the Finance Department, Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that formal solicitation of bids for a screen washer compactor is hereby approved as follows:



SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for a screen washer compactor to be opened in 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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-306**

A RESOLUTION PROVIDING FOR THE SALE OF SURPLUS PROPERTY BY SEALED BID, PUBLIC AUCTION, ONLINE AUCTION, OR AS SCRAP FOR THE PERIOD OF FEBRUARY 1, 2003, THROUGH FEBRUARY 1, 2004

WHEREAS, the City's surplus items consist of (1) obsolete traffic signal heads; (2) lost, stolen, unclaimed and/or seized property from the Police Department and excess property accumulated by the City, and (3) surplus City vehicles, and

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

WHEREAS, it is the intent of the City's Purchasing Division to seek City Council approval for the disposition of surplus property for the period of February 1, 2003, through January 31, 2004, in accordance with Section 801 of the City Charter, and

WHEREAS, by approving staff's recommendation for authorization to dispose of surplus property without having to return to City Council for subsequent approval, the City will save substantial staff and processing time, and

WHEREAS, the estimated gross revenue to be received from the sale of surplus property is between \$100,000.00 to \$125,000.00, and

WHEREAS, Resolution No. 2001-423, authorized the City's current auction agreement providing for auctioneering services to be conducted by Roger Ernst and Associates at their facility located at 824 W. Kiernan Avenue, in Modesto, and

WHEREAS, Roger Ernst & Associates charges a 6.75% Commission Fee on all rolling stock, consisting of motor driven vehicles and a 15% Commission Fee for miscellaneous surplus, consisting of bicycles, furniture, tools, and computers, and

WHEREAS, the City's Purchasing Division has recommended on occasion that specific surplus property could best be sold on a sealed bid basis; however, if said property does not sell on a sealed bid basis, said property should then be sold at a public auction to be conducted by Roger Ernst Associates, and

WHEREAS, should the sealed bid process or the public auction process not bring the desired results, City staff proposes that the property should be sold for scrap, and

WHEREAS, the list of items to be sold at auction or surplus will be on file in the office of the City Clerk, and

WHEREAS, the Central Stores Manager will call Roger Ernst and Associates to coordinate the pick-up of surplus property (such as vehicles) after the appropriate surplus property forms have been filled out and approved by the Purchasing Division, and

WHEREAS, after an auction is held, 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 HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. For the period of February 1, 2003, through January 31, 2004, the following items are hereby declared as surplus, 1) obsolete traffic signal heads, 2) lost, stolen, unclaimed and/or seized property from the Police Department, excess property accumulated by the City, and 3) surplus City vehicles; and the City Manager, or his designated representatives, are hereby authorized to sell same to the highest bidder by

sealed bid, auction, online auction, or as scrap in accordance with Section 801 of the City Charter, with all revenues received (less administrative fees) being deposited in the General Fund per (MMC Section 2-7.09).

SECTION 2. The City's Central Stores Manager is hereby authorized to contact Roger Ernst and Associates, the City's current auctioneer, to coordinate pick-up and sale of surplus property after the necessary surplus property forms have been approved by the Purchasing Division.

SECTION 3. The Purchasing Division is hereby directed to prepare a recap memorandum to account for the items sold and proceeds obtained from said auction.

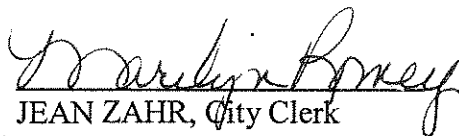
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-307**

**A RESOLUTION AUTHORIZING A ONE (1) YEAR TRIAL AGREEMENT
WITH PROPERTY BUREAU OF SAN CLEMENTE, CALIFORNIA, FOR THE
ONLINE AUCTIONING OF SELECTED SURPLUS PROPERTY (BICYCLES)
FOR THE PERIOD OF JANUARY 2002 THROUGH JANUARY 2003.**

WHEREAS, the City's surplus items consist of (1) obsolete traffic signal heads; (2) lost, stolen, unclaimed and/or seized property from the Police Department and excess property accumulated by the City, and (3) surplus City vehicles, and

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

WHEREAS, it is the intent of the City's Purchasing Division to seek City Council approval for the disposition of surplus property by Property Bureau of San Clemente, California for a one (1) year trial agreement for the period of January 2002, through January 31, 2003, in accordance with Section 801 of the City Charter, and

WHEREAS, in January, 2002, a one (1) year trial agreement was entered into by the Modesto Police Department with Property Bureau of San Clemente, CA for the on-line auctioning of selected lost, stolen, unclaimed and/or seized property (bicycles) through its website PropertyRoom.com, and

WHEREAS, said agreement was authorized by the Modesto Safety Committee but never submitted to Council for formal authorization, and

WHEREAS, the list of items to be sold at online auction are on file in the office of the City Clerk, and

WHEREAS, the Police Department staff will call Property Bureau to coordinate the pick-up of surplus property after the appropriate surplus property forms have been filled out and approved by the Purchasing Division, and

WHEREAS, after an auction is held, 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 HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. For the period of January 2002, through January 2003, the following items are hereby declared as surplus, 1) obsolete traffic signal heads, 2) lost, stolen, unclaimed and/or seized property from the Police Department, excess property accumulated by the City, and 3) surplus City vehicles; and the City Manager, or his designated representatives, are hereby authorized to sell same to the highest bidder by sealed bid, auction, online auction, or as scrap in accordance with Section 801 of the City Charter, with all revenues received (less administrative fees) being deposited in the General Fund per (MMC Section 2-7.09).

SECTION 2. A one (1) year trial agreement with Property Bureau of San Clemente, CA, for the period of January 2002 through January 2003 for the online auctioning of selected surplus property (bicycles) is hereby authorized.

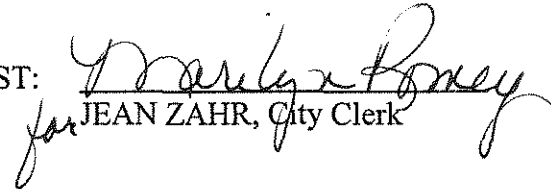
SECTION 3. The Purchasing Division is hereby directed to prepare a recap memorandum to account for the items sold and proceeds obtained from said auction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-308**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF ROCKWELL REJUVENATION, FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.

WHEREAS, the Operations and Maintenance Department Waste Water Collections Division has requested the furnishing of rockwell rejuvenation, and

WHEREAS, the City has over 11,000 rockwells within its storm drainage system and some rockwells require annual cleaning and approximately 300-500 rockwells require rejuvenation annually, and

WHEREAS, rockwells routinely become contaminated and clogged due to organic material, oils, paint, concrete, silt and other debris, and once a rockwell becomes contaminated it ceases to function as designed and is rendered inoperable, and

WHEREAS, as sand layers become sealed off by contaminants, water cannot percolate properly, and the only way to remove the contaminants and return the rockwell to its fully functional state is through the rejuvenation process, and

WHEREAS, the rejuvenation process has evolved into a highly refined operation, and

WHEREAS, the cost savings of a rejuvenation over the installation of a new rockwell is approximately \$3,000.00 per well, and

WHEREAS, this translates in a savings to the City of between \$900,000.00 to \$1,500,000.00 annually, and

WHEREAS, Modesto Municipal Code (MMC), 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, by soliciting competitive bids for the furnishing of rockwell rejuvenation, the Finance Department Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

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 competitive sealed bids for the furnishing of rockwell rejuvenation, for a three (3) year agreement with two (2) one-year extension options, 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.

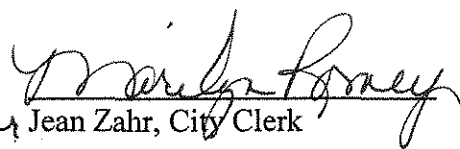
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AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

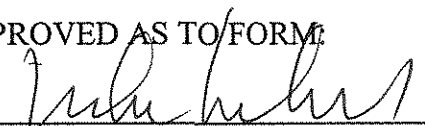
ABSENT: Councilmembers: None

ATTEST:


for Jean Zahr, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

*By Resolution
NO. 2006-061*

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-309**

**A RESOLUTION AMENDING RESOLUTION 88-649, AS AMENDED,
APPROVING COMPREHENSIVE UPDATE OF CAPITAL FACILITIES FEES
PROGRAM, INCLUDING BUT NOT LIMITED TO SCHEDULES AND RATES
APPLICABLE TO DEVELOPMENT, APPROVING CONTINUED USE OF THE
CONSTRUCTION COST INDEX OF THE ENGINEERING NEWS RECORD TO
ADJUST THE CAPITAL FACILITIES FEES IN FUTURE YEARS, AND
ESTABLISHING CRITERIA FOR PROJECTS IN THE "PIPELINE" FOR
PURPOSES OF DETERMINING THE APPLICATION OF THE UPDATED
CAPITAL FACILITIES FEES**

WHEREAS, the City Council of the City of Modesto has adopted Modesto
Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for
imposing and charging Capital Facilities Fees (CFF), and

RESCINDED
MAY 7 2013
THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 88-649, AS

WHEREAS, the current CFF are set forth in city Council Resolution No. 88-649, as
amended by Resolution Nos. 89-373, 89-986, 89-1132, 90-36, 91-90, 91-703, 91-780, 92-
176, 92-507, 94-409, 95-393, 97-122, 98-654, 99-237, and 99-385, and

2013-177

WHEREAS, the above-referenced resolutions previously adopted the current fees
for City facilities based upon capital programs associated with each category of facilities,
including police, fire, parks, transit, streets, air quality, and governmental facilities, and,
in addition, included fees necessary to pay for the administration of the CFF program,
and

WHEREAS, since adoption of the existing fees pursuant to the above referenced
resolutions, the City has received reports entitled CFF Documentation, Documentation of
Justification for Impact Fee Mitigation, revised June 3, 2003, from Town Hall Services,
and City of Modesto Capital Facilities Fee Street Projects Update, Final Draft Report
from Omni-Means Ltd. which provide background information and justification for
updating the City's CFF programs (collectively "CFF Update Report"), and

WHEREAS, the CFF Update Report has been made available for public inspection, and may be viewed during business hours in the Office of the City Clerk, and these documents establish the factual basis for adjusting or creating fees in accordance with their recommendations, and set forth the relationship between contemplated future development and necessary capital facilities, and

WHEREAS, the fees collected pursuant to this resolution will be used to finance the public capital facilities identified in the CFF Update Report which is incorporated herein by this reference, and

WHEREAS, the City Council on February 11, 2003, accepted the preliminary CFF Update Report and the preliminary Capital Facilities Fees and, by motion, set a public hearing on March 11, 2003, and directed staff to proceed with a CFF update, and

WHEREAS, the Notice of Public Hearing was published in the Modesto Bee on February 20, 2003, and

WHEREAS, the public hearing was opened on March 11, continued to March 25, 2003, at which time public testimony was taken and Council guidance was provided on police staffing, use of the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index for the automatic annual inflation adjustment, application of CFF to hospital development, and pipeline, phasing and capping/plateau options, and

WHEREAS, the public hearing was continued to April 8, 2003, at which public testimony was taken and Council provided guidance on hospital CFF, pipeline projects, and capping/plateau of CFF for certain land use categories, and

WHEREAS, the public hearing was continued to April 22, 2003, and subsequently continued to May 6, 2003, at which public testimony was taken, and

WHEREAS, the final public hearing was continued to June 3, 2003, at 5:30 p.m. in the City Council Chambers, Basement Level, 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held, and

WHEREAS, on June 24, 2003, after considering the CFF Update Report, the staff report and the testimony received at all aforementioned public hearings including June 3, 2003, the City Council approved and adopted the CFF Update Report and further found that future development in the City of Modesto as set forth in the report will generate additional demands on municipal services, and

WHEREAS, Initial Study C&ED No. 2003-20 has been prepared on the 2003 CFF Update Report and has concluded that the 2003 CFF Update is within the scope of the Master Environmental Impact Report prepared on the City's General Plan as certified by the City Council on March 4, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council finds and determines that Resolution No. 88-649, as amended by Nos. 89-373, 89-986, 89-1132, 90-36, 91-90, 91-703, 91-780, 92-176, 92-507, 94-409, 95-393, 97-122, 98-654, 99-237, and 99-385 is hereby amended to read as follows:

- A. Overview of Fees Determination: Capital Facilities Fees levied by the City shall be the result of two factors described in this paragraph:
1. The Full Recovery Fees reflect the full cost allocation to each category of new development of capital facilities necessary to serve growth.
 2. The annual inflation adjustment will escalate fees by the amount of inflation.

- B. Full Recovery Capital Facilities Fees: The Full Recovery Capital Facilities Fees (CFF) levied on each category of development in the City of Modesto shall be the fees levied per Attachment A. Land use categories shall have the definition contained in Item D below.
- C. Automatic Annual Inflation Adjustment: All fees shall be automatically adjusted annually for inflation by the City's Director of Engineering and Transportation. The annual inflation adjustment shall be based on the annual change in the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index through the proceeding December. Since December 1998, the Director of Engineering and Transportation has applied an annual inflation adjustment to the CFF set forth in Resolution 98-654, based on the annual change in the ENR through the proceeding December. For any unexpired vested tentative maps or other projects subject to the CFF set forth in Resolution 98-654, the annual inflation adjustment shall continue to be applied to the fees set forth in Resolution 98-654, until such time as the map's or project's vesting status expires. The City's Director of Engineering and Transportation is hereby authorized and directed to make the adjustments described in this paragraph administratively.
- D. Land Use Categories Definitions: For purposes of the fees set forth in subparagraphs A through C, the following definitions of land use development categories shall apply. Uses not defined in these definitions shall be charged at rates to be determined by the Director of Community

and Economic Development using land use determinations and trip generation estimates acceptable to the Director.

RESIDENTIAL

Single Family: Typically single family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

Multiple Family: Includes multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. This category also applies to mobile homes and hotel/motel uses.

Medium Density: Shall mean duplex or triplex buildings located on a single lot designed for occupancy by two or three families.

Senior Housing: Includes retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

BUSINESS PARK

A master planned campus-like development, with common infrastructure and common design standards, that features employment-intensive uses and light manufacturing, and possibly service retail, and regional commercial uses. There are two basic types of business parks:

Business Park – Service

Within a master-planned Business Park area – a predominantly service-oriented business park that has a high amount of office/commercial uses relative to the industrial/warehousing uses, would characterize a service-oriented business park. Typical uses would include: offices including general office building, corporate headquarters, single tenant office building, office park and research and development uses; service retail, regional commercial and wholesale stores; restaurants; and recreational areas.

Business Park – Manufacturing

Within a master-planned Business Park area – a predominantly industrial-oriented business park with low amounts of office/service/retail uses. Typical uses would include: general light industrial uses, manufacturing and/or distribution with associated office, ware house, research, and related functions, and public facilities/utilities.

INDUSTRIAL

Manufacturing/Light Industrial/Industrial Park – facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses which are considered to be in this category include uses such as those listed below:

- 1) Electronics assembly, paper products
- 2) Metal fabricator
- 3) Bottling plant
- 4) Cabinet shop
- 5) Machine shop
- 6) Sheet-metal shop
- 7) Welding shop
- 8) Wholesale shop
- 9) Printing plant
- 10) Material testing labors manufacturer
- 11) Food processor, brewery, bakery
- 12) Recycling facility
- 13) Burning operations for lumber and wood products
- 14) Junk handling, processing, storage
- 15) Landfill, waste products disposal or transfer station
- 16) Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.
- 17) Rock crushing
- 18) Pulp and paper mill
- 19) Reduction, processing and storage of offal, dead animals, ones or similar materials
- 20) Septic tank, cesspool servicing
- 21) Stockyard
- 22) Tannery
- 23) Vehicle salvaging, wrecking

Mixed Industrial Uses – when a development proposal contains more than an incidental mixture of uses, the general type of uses should be segregated and treated separately for the purpose of calculating development fees.

WAREHOUSE DISTRIBUTION/HEAVY

Warehouse Distribution – Facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping materials. Use which are considered to be in this category include uses such as those listed below:

- 1) Freight
- 2) Warehousing

- 3) Corporation yard, freight yard
- 4) Equipment rental yard
- 5) Moving and storage service
- 6) Bulk feed storage
- 7) Lumberyard
- 8) Sand, gravel, building materials dealer

OFFICE

Medical: Offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.

General: All other types of general and professional offices.

COMMERCIAL

Small Retail (less than 50,000 square feet)

Convenience markets, often with on-site gasoline pumps, usually 24-hours or extended hours.

Fast-food restaurants with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken to be consumed outside the restaurant building, although some on-site seating is usually provided.

Sit-down restaurants where food is ordered and consumed in the restaurant, and customers generally stay less than one hour; frequently belong to chains and typically serve breakfast, lunch and dinner. This category also includes all drinking establishments—bars and cocktail lounges—except those in conjunction with low turnover restaurants. The latter are charged the low turnover rate.

Sit-down restaurants which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

Banks – full service banking institutions with or without drive-up windows.

Savings & loan institutions, including thrift and credit unions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given S & L is 5,000 gross square feet or more, or provides full banking services, it should be treated as a bank.

Other retail includes a wide range of retail and service uses, both free-standing and in shopping centers, including but not limited to

supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, video arcades, and new car sales. May include uses in small retail category if in a shopping center.

OTHER

Church: Structures primarily designed as a place for public worship.

Day Care and School: An educational, vocational or day care facility.

Hospital: A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injured of the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital or laboratories, outpatient departments, training facilities, central service facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered "professional offices" if located off-site, unless a multi-site campus is covered by a P-D Zone or hospital uses. A separate set of offices on the same site for physicians is considered "professional offices".

Mini-Warehouse: A personal storage facility not associated with industrial use.

Nursing Home: Structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family.

For purposes of interpreting these definitions, the term "Commercial Use" shall mean those uses designated as permitted or conditional uses in the C-1, C-2 and C-3 Zones of Title 10 of the Modesto Municipal Code.

BE IT FURTHER RESOLVED by the City Council that the Director of Community and Economic Development is authorized to present proposals to the City Council for transfer of CFF waiver from existing buildings to other locations based upon the following criteria:

- A. The project involves commercial/industrial job retention of at least 25 jobs or redevelopment of blighted area.

- B. The beneficiary of the transfer is the owner of the existing building or the existing building is demolished and was not given a waiver when rebuilt.

BE IT FURTHER RESOLVED by the City Council that the findings of Initial Study EA C&ED No. 2003-20 are hereby acknowledged, namely,

- A. The proposed 2003 CFF Update is within the scope of the General Plan covered by the Modesto Urban Area General Plan 2003 Final Master Environmental Impact Report (SCH#1999082041) (FMEIR).
- B. The proposed 2003 CFF Update will have no new additional significant effect on the environment not addressed in the FMEIR and no new or additional mitigation measures are required.
- C. As per Public Resources Code Section 21157.1, no new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act for the 2003 CFF Update.
- D. There are no specific features that are unique to the proposed project that require project specific mitigation measures. All feasible mitigation measures set forth in the FMEIR Update that are appropriate to the 2003 CFF Update shall be incorporated in the 2003 CFF Update.
- E. No new or additional mitigation measures are required for the proposed 2003 Update. All certified mitigation measures identified in the FMEIR will apply citywide including this project as appropriate.
- F. The initial study EA/C&ED 2003-20 provides substantial evidence to support findings A through E above.

BE IT FURTHER RESOLVED by the City Council that in addition to other findings made by this resolution, the City Council further finds that the California

Environmental Quality Act (CEQA) does not apply to the adoption of this resolution pursuant to Sections 10561 and 15273 of the State CEQA Guidelines because:

- A. The fees established by this resolution will be collected, in part, for the purpose of obtaining funds to be used for capital projects which are necessary to maintain the current level of services within the City, including the construction of police, fire facilities, parks and recreation facilities, other city facilities, air quality facilities, public transportation facilities and street facilities as well as the purchase of certain items of capital equipment.
- B. However, the additional of capital facilities to new neighborhoods will not take effect until there has been CEQA review of the development projects which will pay for said capital facilities via the Capital Facilities Fee mechanism established or increased by this resolution. Such CEQA review will take place at the annexation, zoning, and/or subdivision stages of each development project. In addition, the construction of each capital facility will be subject to CEQA review. It is therefore reasonably certain that this resolution which either established or increased Capital Facility Fees to fund Capital Facilities that will be necessary in the event growth continues to occur will not, by itself, have any possibility of causing a significant effect on the environment.

BE IT FURTHER RESOLVED by the City Council that the Town Hall Services CFF Update Report and the testimony received at the public hearings of March 25, April 8, April 22, May 6 and June 3, 2003, have established:

- A. That there is a reasonable relationship between the need for the public facilities designated in the reports and analysis, and in the City's General Plan and Specific Plans generated in accordance with that plan, and the City's Capital Improvement Plan, and the impacts of the type of development for which the corresponding fees are charged,
- B. That there is a reasonable relationship between the fees, uses, and the types of development for which the fee is charged,
- C. That there is a reasonable relationship between the amount of the various fees and the cost of the public facilities or portions of the public facilities attributable to the development and types of development upon which the various fees are imposed,
- D. That the cost estimates set forth in the reports and analysis are reasonable cost estimates for constructing these facilities, and that the fees expected to be generated by future development will not exceed the total costs of constructing the public facilities just referenced,
- E. The Town Hall Services reports and analysis establish a linkage or nexus between development in the City's Annexation Areas (unincorporated area of the City's General Plan Area) as set forth in Attachment B and the need for additional public facilities or improvements to existing public facilities within the City of Modesto as well as within the Annexation Areas.

Therefore, the term "development" as used in the preceding four subparagraphs shall include but not be limited to development in the City's Annexation Areas that may be approved or allowed by Stanislaus County, prior to the annexation of said Annexation Areas or portions

thereof to the City of Modesto. Because of this clearly established nexus, it is the intention of the City Council of the City of Modesto that the fees created by this resolution for streets facilities, air quality facilities, and public transportation facilities be imposed by the County of Stanislaus on development approved of or allowed by the County of Stanislaus in the City's Annexation Areas area and collected by the City of Modesto.

The City Council further finds that the methods of allocation of the fee components proposed in the Town Hall Services analysis and reports herein, do bear a fair and reasonable relationship to each development's burden on, and benefit from, the facilities to be funded by the respective fees.

BE IT FURTHER RESOLVED by the City Council that only projects shown in the CFF Update Report are eligible for receipt of CFF funds. Individual projects shall be flexibly budgeted within total dollar limits of the capital programs of the two principal fee components as follows:

- A. Fees for Community Facilities, which include Police, Fire, Parks, Government and Administration.
- B. Fees for Transportation, which includes Streets, Transit and Air Quality. As long as the overall dollar amounts of the capital programs for these two components are not exceeded individual eligible projects may vary from the estimates shown in the CFF Update Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it finds and determines for the implementation and payment of Capital Facility Fees, the City Council establishes the following guidelines so that a development project that is not vested under State law would be subject to the fees in place prior to September 1, 2003, if the development project meets any of the following criteria:

- A. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-September 3, 2003, CFF rate.
- B. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to September 3, 2003; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior to September 3, 2003.
- C. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, prior to September 3, 2003, until the expiration of the map's vesting status.

BE IT FURTHER RESOLVED by the City Council that CFF shall be due and payable at the time a building permit is issued, unless otherwise approved by Council resolution, as set forth in Modesto Municipal Code Section 8-1.904.

BE IT FURTHER RESOLVED that it is the policy of the City Council to annually review one or more components of the capital program that form the basis of calculating the Capital Facilities Fees. This policy in no way prevents the upward adjustment of fees due to annual inflation adjustments nor does it prevent the Council from adopting higher Full Recovery Fees that may result from a more costly capital program.

BE IT FURTHER RESOLVED by the City Council that should any fee provision, clause, paragraph or subparagraph be held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications thereof which can be given effect without the invalid fee, provision, clause, paragraph or subparagraph, and to this end, the provisions of this resolution are declared severable. By adopting this resolution, the City Council hereby declares that it would have adopted this resolution without that fee, provision, clause, paragraph or subparagraph.

BE IT FURTHER RESOLVED by the City Council that this resolution shall take effect in accordance with law on September 3, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

**CITY OF MODESTO
CAPITAL FACILITY FEES
Effective September 1, 2003**

<u>Residential:</u>	<u>Unit</u>	<u>Total</u>	
Single Family Residential Use	D.U.	\$14,934.00	Maps approved after 8/31/03
Multi-Family Residential Use	D.U.	9,789.00	Maps approved after 8/31/03
Senior Housing	D.U.	7,754.00	Maps approved after 8/31/03
 <u>Nonresidential</u>			
Hotel/Motel Room charge	RM	4,958.00	
<u>Retail</u>			
50,000 sq.ft. less than	1,000 sq.ft.	15,426.00	
50,000-99,000 sq.ft.	1,000 sq.ft.	12,842.00	
100,000-300,000 sq.ft.	1,000 sq.ft.	10,873.00	
300,000 sq.ft. greater than	1,000 sq.ft.	10,158.00	
Medical Office	1,000 sq.ft.	19,866.00	
General Office	1,000 sq.ft.	8,901.00	
Hospital (see note)	1,000 sq.ft.	12,519.00	
Daycare	1,000 sq.ft.	7,195.00	
Church	1,000 sq.ft.	2,032.00	
Nursing Home	1,000 sq.ft.	2,679.00	
Business Park (Service)	1,000 sq.ft.	6,345.00	
Business Park (Manufacturing)	1,000 sq.ft.	3,934.00	
Industrial (Manufacturing)	1,000 sq.ft.	3,477.00	
Industrial (Warehousing)	1,000 sq.ft.	2,523.00	

NOTE: Hospitals have the flexibility of choosing the CFF which goes into effect on September 1, 2003, or choosing the CFF in effect prior to September 1, 2003 and also doing a CEQA and mitigation study and then paying for all mitigation identified by the study.

CITY OF MODESTO
CAPITAL FACILITIES FEES
 Effective July 1, 2002

<u>Residential:</u>	<u>Unit</u>	<u>Total</u>	
Low Density Residential use	D.U.	4,396.00	Vested before 12/9/98
		6,676.00	Vested after 12/9/98
Medium Density Residential use	D.U.	3,312.00	And before 9/1/2003
Medium-High Density Residential Use	D.U.	2,735.00	
Senior Housing	D.U.	2,175.00	
Hotel/Motel + Room Charge (below)	1,000 sq.ft.	1,307.00	
Hotel/Motel Room Charge	RM	1,144.00	
<u>Nonresidential:</u>			
Industrial			
Industrial	1,000 sq.ft.	1,837.00	
Warehouse	1,000 sq.ft.	441.00	
Office			
Medical	1,000 sq.ft.	8,759.00	
General Ofdfice	1,000 sq.ft.	5,013.00	
Commercial			
Convenience Marts		See Retail Rate	
Restaurant – Fast Food		See Retail Rate	
Restaurant – High Turnover		See Retail Rate	
Restaurant – Low Turnover		See Retail Rate	
Retail			
50,000 sq.ft., less than	1,000 sq.ft.	5,086.00	
50,000-99,000 sq.ft.	1,000 sq.ft.	4,712.00	
100,000-300,000 sq.ft.	1,000 sq.ft.	4,608.00	
300,000 sq.ft. greater than	1,000 sq.ft.	4,589.00	
Financial			
Banks		See Retail Rate	
Savings & Loan		See Retail Rate	
Miscellaneous			
Car Wash – Manual – Call		Call	
Church	1,000 sq.ft.	424.00	
Day Care Center	1,000 sq.ft.	2,105.00	
Hospital	1,000 sq.ft.	2,805.00	
Mini-Warehouse	1,000 sq.ft.	368.00	
Nursing Home	1,000 sq.ft.	443.00	
Service Station		See Retail Rate	
Recreation			
Golf Courses		Call	
Movie Theater		See Retail Rate	
Racquet Club		Call	
Tennis Court		Call	



CITY OF MODESTO

FIGURE 1-2
CAPITAL FACILITIES FEE
STUDY AREA
2003

DESIGNATIONS

- City Limits
- Annexation Area

BOUNDARY LINES

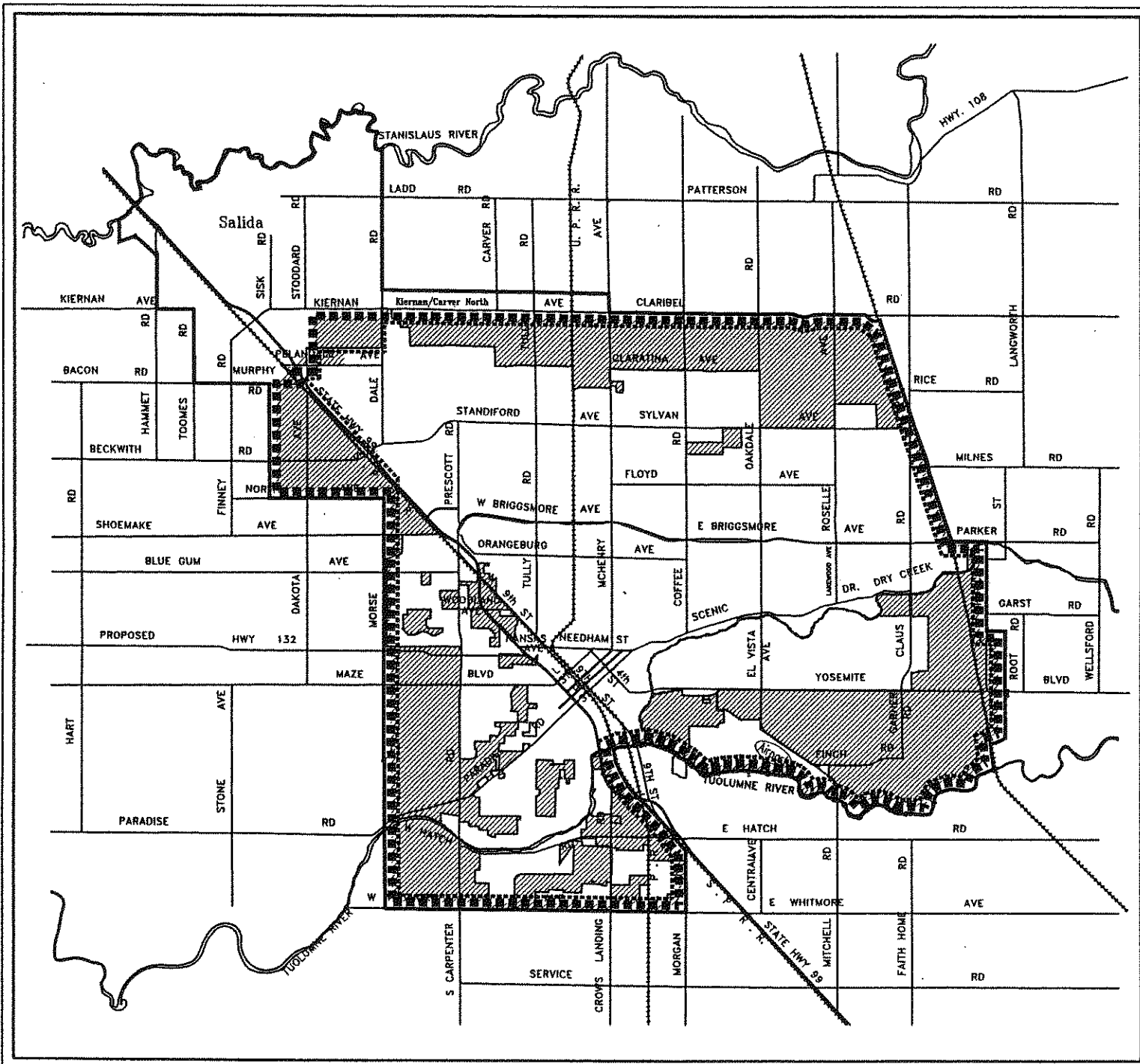
- General Plan Boundary
- CFF Study Area
- Sphere of Influence

REFERENCE LINES

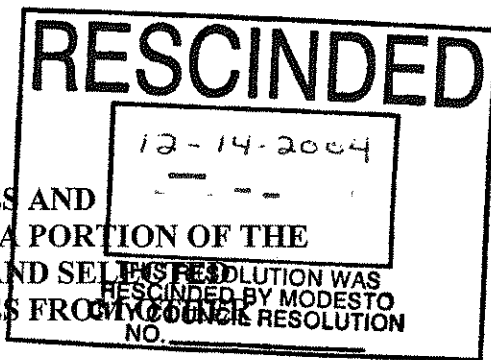
- Streets
- Freeway
- Railroads
- Rivers
- Adjacent Community Boundary



DATE: 10/1/03
DRAWN BY: [illegible]



MODESTO CITY COUNCIL
RESOLUTION NO. 2003-310



A RESOLUTION CAPPING CAPITAL FACILITIES FEES AND ESTABLISHING A PROGRAM TO TRACK AND FUND A PORTION OF THE CFF FOR MULTI-FAMILY HOUSING, SR. HOUSING, AND SELECTED COMMERCIAL/INDUSTRIAL LAND USE CATEGORIES FROM OTHER SOURCES OF FUNDING

2004-678

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facilities Fees (CFF), and

WHEREAS, the City's CFF are set forth in City Council Resolution 88-649, as amended by Resolution Nos. 89-373, 89-986, 89-1132, 90-36, 91-90, 91-703, 91-780, 92-176, 92-507, 94-409, 95-393, 97-122, 98-654, 99-237, and

WHEREAS, the above-referenced resolutions previously adopted the current fees for City facilities based upon capital programs associated with each category of facilities, including police, fire, parks, transit, streets, air quality, and governmental facilities and, in addition, included fees necessary to pay for the administration of the CFF program, and

WHEREAS, on June 24, 2003, the City adopted Resolution No. 2003-309 to update City's CFF program, which resulted in a significant increase in CFF, and

WHEREAS, it is in the public's benefit to provide financial assistance for CFF for categories of land use that provide more affordable and diverse housing opportunities or that generate long term employment to address the jobs-housing imbalance,

WHEREAS, the City desires to establish a program to cap or "plateau" the CFF for certain land use categories and fund from other sources the difference between the proposed fee and the capped fee,

WHEREAS, the City will establish a tracking system to ensure that the funding gap created by the capped fees will be backfilled on a regular basis but not less than every five years,

NOW THEREFORE the City Council of the City of Modesto hereby finds as follows:

1. There is a public benefit to provide financial assistance for Capital Facilities Fees (CFF) for categories of land use that provide more affordable and diverse housing opportunities or that generate long term employment to address the Jobs-Housing imbalance within Stanislaus County and the City of Modesto.
2. For Multi-Family and Senior Housing categories the City Council finds that financial assistance is necessary to:
 - a. Support housing for all income groups.
 - b. Promote the development of affordable housing throughout the community.
 - c. Facilitate development of housing for special needs groups.
 - d. Facilitate the development of entry-level housing.
 - e. Promote equal opportunity for all residents to reside in the housing of their choice.
 - f. Encourage a range of housing types.
 - g. Provide housing opportunity to senior households in Modesto of which approximately 33 percent are low or very low income.
 - h. Help address the limited construction of multi-family/senior units experienced between 1990 and 2001. Only 10 percent of the housing units built between 1990 and 2001 were multi-family units, increasing Modesto's single-family housing stock as a percentage of total housing from 72 percent in 1990 to 74 percent in 2001. The State of California Department of Housing and Community Development has identified very low and low income housing, typically multi-family units, as a significant unmet need in the 2002-2003 Regional Housing Needs Allocation.
3. For Non-residential land use categories the City Council finds that financial assistance is necessary to:
 - a. Assist in the development of long term employment opportunities for Modesto and area residents.

- b. Provide job opportunities to address the area's identified jobs-housing imbalance. Compared to California overall, Modesto has a higher percentage of residents working outside their County of residence. US Census 2000 shows 19.5 percent of Modesto residents working outside Stanislaus County compared to a California statewide average of 17.1 percent.
- c. Promote employment income growth for Modesto residents. While Modesto's median household income is approximately 10 percent greater than the San Joaquin Valley region, the median income is 15 percent lower than the statewide average.
- d. Encourage economic development and redevelopment in areas showing the greatest percentage potential for job growth according County of Stanislaus Employment Development Department 2002 report including retail sales, cashiering, teacher aides and assembly workers.
- e. Promote a broader range of employment opportunities to reduce commute times with the related traffic congestion and adverse air quality impacts, as well as, provide diverse job site location(s). Between 1990 and 2000 Census, there has been a 47 percent increase in the number of residents commuting 20 minutes or more to work.
- f. Assure services for single-parent households comprising 13 percent of Modesto households in 2000, an increase from 9 percent in 1990.

BE IT FURTHER RESOLVED that the City Council hereby caps (plateaus) the CFF established by Resolution 2003-309 as follows:

The CFF increase for the following land uses is hereby capped at one-half the proposed increase plus automatic annual adjustments for inflation as set forth below:

	ADOPTED FEE Effective 1-Sep-03	FEE CAP (Amount To Be Collected)	FEE SUBSIDY (Funded From Other Sources)
Residential (unit)			
Multi Family	\$9,789	\$6,262	\$3,527
Senior Housing	\$7,754	\$4,965	\$2,789
Non-residential (per 1,000 sq. ft.)			
Hotel/Motel (per room)	\$4,958	\$3,051	\$1,907
Retail			
<50,000 sq. ft.	\$15,426	\$10,256	\$5,170
50-100,000 sq. ft.	\$12,842	\$8,777	\$4,065
100-300,000 sq. ft.	\$10,873	\$7,741	\$3,132
>300,000 sq. ft.	\$10,158	\$7,374	\$2,784
Medical Office	\$19,866	\$14,313	\$5,553
General Office	\$8,901	\$6,957	\$1,944
Hospital	\$12,519	\$7,662	\$4,857
Daycare	\$7,195	\$4,650	\$2,545
Nursing Home	\$2,679	\$1,561	\$1,118
Business Park (Service)	\$6,345	\$5,679	\$666
Business Park (Manufacturing)	\$3,934	\$2,886	\$1,048
Industrial (Manufacturing)	\$3,477	\$2,657	\$820
Industrial (Warehousing)	\$2,523	\$1,482	\$1,041

NOTE: All fees and fee subsidy will be adjusted annually per Resolution No. 03-

Hospitals have the flexibility of choosing the CFF which goes into effect on September 1, 2003, or choosing the CFF in effect prior to September 1, 2003 and also doing a CEQA and mitigation study and then paying for all mitigation identified by the study.

BE IT FURTHER RESOLVED that the City Council hereby establishes a program to track, report on, and fund the difference created by the capped fees as follows:

1. The City will report annually as part of the AB 1600 reporting requirement.
2. The City will allocate funds from Federal or State grants, Federal or State appropriations, developer contribution, or General Fund to fund the CFF subsidy for the police, fire, parks, transit, general government, and air mitigation components of the Capital Facilities Fees. The parks component will also use State Parks Bond Funds to fund the fee subsidy. Federal and state gas tax, developer contributions, and earmarked transportation funds will be used to fund the subsidy for the streets and transit components of the Capital Facilities Fees.

To the extent that other sources of funding are not available, the General Fund may be used to fund a component of the CFF subsidy.

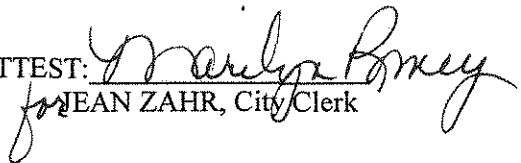
3. The City will ensure that the funding gap created by the capped fees will be backfilled on a regular basis, but not less than every five years.
4. The above caps on the CFF increase will continue until the next General Plan update and the jobs-housing balance is reevaluated.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-311**

**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): 2003 CAPITAL FACILITIES FEES UPDATE (CITY INITIATED)**

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Modesto Urban Area General Plan 2003 Final Master Environmental Impact Report (“FMEIR”) (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Town Hall Services, in association with Omni Means, Ltd., has prepared a proposed comprehensive update to the City’s Capital Facilities Fees (CFF) Program for impact/mitigation fees to pay the costs of for public facilities necessary to accommodate new development (“2003 CFF Update”), and

WHEREAS, the proposed 2003 CFF Update would revise the fees to reflect changes since the last update, including increases in land values, increased Police Department staffing ratios, and improved and more detailed documentation of facilities including streets and transportation facilities and facilities in the City’s INET system, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a master environmental impact report, 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 FMEIR, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2003-20 ("Initial Study") reviewed the proposed 2003 CFF Update to determine whether it is within the scope of the projects covered by the FMEIR, and concluded that the proposed 2003 CFF Update is within the scope of the FMEIR and will have no additional significant effect on the environment that was not identified in the FMEIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed 2003 CFF Update is within the scope of the projects covered by the FMEIR, and

WHEREAS, on March 12, 2003 the City caused to be published a public notice of the City's intent to make a finding that the proposed 2003 CFF Update conforms with the FMEIR, and

WHEREAS, said matter was considered by the City Council at duly noticed public hearings which were held on March 11, March 25, April 8, April 22 May 6 and June 3, 2003, 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 2003 Capital Facilities Fees Update, 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 2003 CFF Update is within the scope of the General Plan covered by the Modesto Urban Area General Plan 2003 Final Master Environmental Impact Report (SCH# 1999082041) (FMEIR) Update.

- B. The proposed 2003 CFF Update will have no new additional significant effect on the environment not addressed in the FMEIR Update and no new or additional mitigation measures are required.
- C. As per Public Resources Code Section 21157.1, no new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act for the 2003 CFF Update.
- D. There are no specific features that are unique to the proposed project that require project specific mitigation measures. All feasible mitigation measures set forth in the FMEIR Update that are appropriate to the 2003 CFF Update shall be incorporated in the 2003 CFF Update.
- E. No new or additional mitigation measures are required for the proposed 2003 Update. All certified mitigation measures identified in the FMEIR will apply citywide including this project as appropriate.
- F. The initial study EA/C&ED 2003-20 provides substantial evidence to support findings A through E, above.

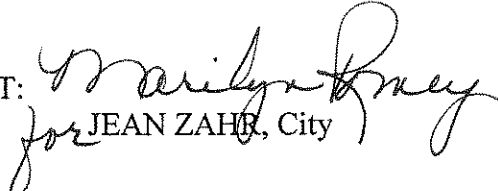
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

EXHIBIT A
Initial Study
EA/C&ED 2003-20

City of Modesto

Initial Study

2003 CAPITAL FACILITIES FEES UPDATE

EA NO. C& ED – 2003 - 20

I. PURPOSE:

The Master Environmental Impact Report for the Modesto urban Area General Plan allows for limited environmental review of this proposed 2003 Capital Facilities Fees Update (CFF Update). The Final Master EIR (SCH# 1999082041) was certified by the Modesto City Council on March 4, 2003.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan. This Initial Study also provides documentation that the project is considered in the Master EIR as being within the scope of the General Plan.

II. PROJECT DESCRIPTION:

- A. Project Title:
2003 CFF Update
- B. Lead Agency Name and Address:
City of Modesto, P.O. Box 642 Modesto, CA 95353
- C. Contact Person, address and phone number:
Patrick Samsell, Finance Department, 1010 Tenth Street, Suite 5200,
Modesto, CA, (209) 577-5370
- D. Project Location:
Generally: the City of Modesto Sphere of Influence
- E. Project Sponser, address and phone number:
City of Modesto, P.O. Box 624, Modesto, CA 95353
- F. General Plan Designation:
Not Applicable

- G. Zoning:
Existing: Not Applicable
Rezoning: Not Applicable

H. Description of Proposed Project:

The City of Modesto is proposing an update to the City's Capital Facilities Fees (CFF) Program. This is the program of development impact fees that are collected to pay for public facilities that are needed citywide as the City grows. The 2003 update would revise the fees to reflect changes since the last update, including: increases in land values, increased Police Department staffing ratios, adequate funding of Streets and Parks facilities per the ENR index, improved and more detailed documentation of facilities. Also included are facilities in the City's INET system. The updated fee study also identifies the existing deficiency in citywide public facilities at approximately \$185 Million.

Since the City cannot collect fees outside its Sphere of Influence, the program has been limited to mainly those areas of the City's General Plan that are inside Modesto's Sphere of Influence.

As an example, CFF collected for a Single-Family dwelling would increase from \$6,676 to \$15,852 per dwelling unit. The total estimated program cost would be \$1.77 billion. A summary of the Recommended CFF Program is shown on the attached Exhibit "A".

The detailed analysis of the Streets component of the program is contained in "City of Modesto Capital Facilities Fee Streets Project Update" dated February 2003 prepared by Omni-Means Ltd., and the detailed methodology and analysis used in preparing the 2003 CFF Update is contained in the "CFF Update Report" dated January 2003 prepared by Town Hall Services. These documents are on file at the City of Modesto Finance Department, Suite 5200, 1010 Tenth Street, Modesto.

- I. Surrounding Land Uses:
North: Unincorporated County land and City of Riverbank
South: Unincorporated County land and City of Ceres
East: Unincorporated agricultural land
West: Unincorporated County lands
- J. Other Public agencies whose approval is required:
None

II. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR:

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan and Master EIR (MEIR) anticipated upon buildout of the General Plan that streets would be built concurrent with development. In the short term there may be deficiencies because of the time needed to complete construction of the improvements. However, upon build out, except for certain identified segments, the Level of Service D and above would be provided by the facilities for a substantial majority of streets in the program. The CFF fee represents the majority of the funding source for those capital facilities in the program, but other sources have been identified (i.e. Federal, State and local funding). Since facilities identified in the MEIR would still be constructed ultimately, albeit from other funding sources than CFF, adoption of this CFF Update would not result in traffic impacts not identified in the Master EIR. Thus the proposed CFF Update is 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 V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

This proposed CFF Update program provides an increased component for Air Quality infrastructure items such as alternate transportation i.e. bike and pedestrian trails to meet the needs of the adopted General Plan. This financing program, which assists in the funding of some air quality mitigation measures, will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The adoption of the CFF Update is an administrative action to update the existing developer fee program to fund infrastructure in the General Plan area. There are no direct impacts on generation of noise from the adoption of this revised fee program. Therefore, the project will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

Because the CFF Update is for infrastructure to serve the adopted General Plan, these proposed revisions to the City's existing developer fee infrastructure funding program will not result in new significant effects on loss of productive agricultural land not already examined in the General

Plan Master EIR. The adoption of the CFF Update will thus, not remove any additional agricultural lands from production. 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-4-12) are still valid.

E. Increased Demand for Water Supplies

Because the CFF Update to the existing City's infrastructure funding program is based on serving the General Plan that was analyzed by the City's General Plan Master EIR, there would be no new significant effects not identified in the Master EIR. This CFF Update would require no additional water supplies beyond that identified in the Increased Demand for Water Supplies section of the MEIR. 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.

F. Increased Demand for Sanitary Sewer Services

The CFF Update and its proposed infrastructure are consistent with the needs of the City's adopted General Plan and will create no additional 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.

G. Loss of Sensitive Wildlife and Plant Habitat

The CFF Update consists of revisions to an existing infrastructure funding mechanism whereby clearly has no physical impacts would result that would cause a significant effect on loss of sensitive wildlife and plant habitat not identified in the MEIR. There is clearly 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.

H. Disturbance of Archaeological and Historic Sites

The CFF Update project consists of revisions to an existing infrastructure funding mechanism whereby clearly has no physical impacts would result that would cause a significant effect on disturbance of archaeological and historic sites not identified in the MEIR. The Existing conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

- I. **Drainage, Flooding and Water Quality**
Because the CFF Update, revisions to the City's existing infrastructure funding program, is based on serving the General Plan that was analyzed by the City's General Plan Master EIR, there would be no new significant effects not identified in the Master EIR. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not addressed in the MEIR. The Existing Conditions, Impacts analysis and the Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are, therefore, still valid.
- J. **Increased Demand for Storm Drainage**
The CFF Update and its proposed infrastructure are consistent with the needs of the City's adopted General Plan and will create no additional demand for sewer capacity not identified 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-10-1 through V-10-16) are, therefore, still valid.
- K. **Increased Demand for Parks and Open Space**
The CFF Update proposal maintains the same ratio of parks and open space per population and provides additional funding for restoring existing parks and funding towards a regional sports complex. Thus there would be no significant adverse parks and open space impact not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore still valid.
- L. **Increased Demand for Schools**
The proposed CFF Update relates to only City infrastructure and not school district infrastructure. Also, since there will be no additional students generated by the project, the proposal will not impact schools in the Modesto Urban Area. Thus 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.
- M. **Increased Demand for Police Services**
Since the adoption of the CFF Update program would create no additional demand for Police Service protection not already identified in the General Plan Master EIR, 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.

N. Increased Demand for Fire Services

Since the adoption of the CFF Update program would create no additional demand for Fire Service protection not already identified in the General Plan Master EIR, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

Since there would be no increase in solid waste generation from the proposed CFF Update adoption, the analysis in the MEIR is still consistent. 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.

P. Generation of Hazardous Materials

Because adoption of the CFF Update will not result in additional or different type of land uses not already identified in the adopted General Plan, there will be no additional hazardous material generated beyond those identified in the MEIR. 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-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

Because adoption of the CFF Update will not result in additional or different type of land uses not already identified in the adopted General Plan, there will be no additional impacts due to Landslides and Seismic Activity beyond those identified in the MEIR. 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.

R. Energy

Because adoption of the CFF Update will not result in additional or different type of land uses not already identified in the adopted General Plan, there will be no additional impacts due to demand for energy beyond those identified in the MEIR. Utility companies serving the Modesto Urban Area indicated, during MEIR preparation, 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.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed 2003 CFF Update is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH# 1999082041).
- B. The proposed 2003 CFF Update will have no new additional significant effect on the environment not addressed in the General Plan Master EIR and no new or additional mitigation measures are required.
- C. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the 2003 CFF Update.
- D. No new or additional mitigation measures are required for the proposed 2003 Update. All certified mitigation measures identified in the MEIR will apply citywide including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings "A, B, C, and D" above.

Signature: _____



MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 312

**A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL
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 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: 
MIKE MILICH, City Attorney

MONTHLY FY 02-03 ADJUSTMENTS - WORKSHEET

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)	Document Total
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Budget Adjustments for the Month of June 2003

Parks Recreation & Neighborhoods:

2300-310-Q245 Hillside Drive Orville Wright Park											
1)	Appropriation	Construction	2300	310	Q245	6040	Q245	\$283,000	(\$10,000)	\$273,000	(\$10,000)
	Appropriation	CDBG Contingency Reserve	1130	800	8000	8003	1130R	(\$533,730)	\$10,000	(\$523,730)	\$10,000
	Appropriation	Transfer out to 2300	1130	700	Q245	7230	Q245G	\$382,000	(\$10,000)	\$372,000	(\$10,000)
	Revenue	Transfer in 1130	2300	700	Q245	9113	na	\$382,000	(\$10,000)	\$372,000	(\$10,000)
	Justification	Adjustment required to reflect the construction bids for this project which were below the engineers estimate. There is no impact to the general fund.									
1130-320-3256-0495 CDBG Emergency Home Repair											
2)	Appropriation	CDBG Emergency Home Repair Program	1130	320	3256	0495	3250C	\$150,000	(\$40,000)	\$110,000	(\$40,000)
	Appropriation	CDBG Contingency Reserve	1130	800	8000	8003	1130R	(\$523,730)	\$40,000	(\$483,730)	\$40,000
	Justification	Adjustment required to reduce the budget for this program. The number of homes requiring emergency repair is lower than anticipated. There is no impact to the general fund.									
2300-310-N992 King Kennedy Center											
3)	Appropriation	Eng/Design/Admin	2300	310	N992	6010	N992	\$33,750	\$8,000	\$41,750	
	Appropriation	Construction	2300	310	N992	6040	N992	\$120,250	\$37,500	\$157,750	
	Appropriation	Contingency	2300	310	N992	6050	N992	\$18,500	\$4,500	\$23,000	
	Appropriation	Construction	2300	310	N992	6060	N992	\$18,500	\$0	\$18,500	\$50,000
	Appropriation	CDBG Contingency Reserve	1130	800	8000	8003	1130R	(\$483,730)	(\$50,000)	(\$533,730)	(\$50,000)
	Appropriation	Transfer out to 2300	1130	700	N992	7230	N992G	\$191,000	\$50,000	\$241,000	\$50,000
	Revenue	Transfer in 1130	2300	700	N992	9113	na	\$191,000	\$50,000	\$241,000	\$50,000
	Justification	Additional funding is needed due to the unusually high quantity of sub-contractors that the bidders were using. There is no impact to the general fund.									
4)	Revenue	TRRP Apportionment	8900	390	3912	3701		227,341	-22,617	204,724	
	Revenue	TRRP Admin Fees	0100	390	3916	3706		51,727	-4,062	47,665	
	Appropriation	TRRP Operations, Services Prof & Other	8900	390	3912	0235		167,597	-22,617	144,980	
	Appropriation	TRRP Operations, Intergovernmental Svcs	8900	390	3912	0240		51,727	-4,062	47,665	
	Justification	The above adjustments are necessary to address the reduction in the annual TRRP contribution for FY 02-03. Overlooked in this year's budget, was a 5% reduction approved by the TRRP Commission. There will be a reduction of \$4,062 in the FY 02-03 General Fund revenue for the TRRP Admin Fees that the City receives to administer TRRP, which corresponds to 10% of the reduction in the FY 02-03 operating budget, due to a reduction in the contributions of the three TRRP agencies.									
5) 2300-310-M182 Maddux Youth Center											
	Appropriation	Construction	2300	310	M182	6040	M182	\$568,100	\$24,626	\$592,726	
	Revenue	Proposition 12	2300	310	M182	3510	na	\$524,000	\$24,626	\$548,626	
	Justification	Adjustment required to reflect the actual amount from the State of California Roberti-Z'berg-Harris Urban Open Space and Recreation Grant, Contract Number C2009326, in the amount of \$548,626. There is no impact to the general fund.									

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-313**

CONSIDER DECLARING SURPLUS ONE 1976 VAN PELT LADDER TRUCK AND AUTHORIZING THE SALE OF THIS UNIT THROUGH ROGER ERNST AND ASSOCIATES, AUCTIONEERS. THE ESTIMATED VALUE OF THIS UNIT IS \$4,000.00.

WHEREAS, the City Manager is authorized by Charter Section 801(r) to sell obsolete, and unused or surplus personal property of the City of Modesto with the approval of the City Council, and

WHEREAS, the City purchased a new aerial ladder truck from Pierce Manufacturing in 1996, and

WHEREAS, at that time the existing 1976 Van Pelt ladder truck was placed into reserve status to be used when a ladder truck was down for repairs or should there be a major event where additional apparatus were needed, and

WHEREAS, each year all ladder trucks must be tested and certified by a third party testing service, and

WHEREAS, for the past three years the 1976 Van Pelt reserve unit has had numerous problems with its ladder, which required repair prior to certification, and

WHEREAS, this year Underwriters Laboratory found sixteen weld cracks in critical locations on the ladder, and

WHEREAS, while the weld cracks were repairable, the weld failures caused great concern, and

WHEREAS, the failures would indicate that the ladder is showing signs of metal failure, and

WHEREAS, the 1976 Van Pelt ladder truck has reached the end of its fire fighting service life and has been replaced with newer equipment, and

WHEREAS, City staff has recommended the ladder truck be sold at public auction through Roger Ernst & Associates, Auctioneers, for the estimated sum of \$4,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1976 Van Pelt ladder truck is hereby declared surplus equipment.

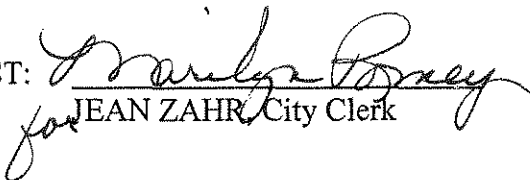
BE IT FURTHER RESOLVED that the sale of this unit through Roger Ernst and Associates, Auctioneers, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-314**

A RESOLUTION APPROVING AWARD OF A CONTRACT WITH LARRY WALKER AND ASSOCIATES IN THE AMOUNT OF \$298,767 FOR COMPLETION OF THE CITY'S "STORM WATER MANAGEMENT PLAN" UPDATE, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT

WHEREAS, on November 16, 1990, the Environmental Protection Agency published regulations that required municipalities over 100,000 in population to apply for a National Pollution Discharge Elimination System (NPDES) municipal stormwater permit, and

WHEREAS, by Council Resolution No. 2002-588, the City accepted the renewal of NPDES Stormwater Permit No. CAS8083526 prepared for the City of Modesto, and

WHEREAS, as part of this current NPDES Stormwater Permit, the Regional Water Quality Control Board (RWQCB) mandates the City to create a Storm Water Management Plan (SWMP) by April 1, 2003, which deadline has been extended, and

WHEREAS, within that Plan the City must develop the following programs:

- Construction Program
- Industrial/Commercial Program
- Municipal Program
- Illicit Discharge/Illicit Connection Program
- Education and Public Outreach Program
- Land-Use Planning for New Development and Redevelopment
- Training Program
- Assessment Tools / Performance Standards
- Fiscal Analysis

and

WHEREAS, City staff has been working on the SWMP, however, there are many complex issues and it will take technical and environmental experts approximately 2,500 additional man-hours to complete this comprehensive plan, and

WHEREAS, staff's already-heavy workload precludes completion of this project without outside assistance, and

WHEREAS, if the Plan is not completed, the City will be in violation of its NPDES Stormwater Permit, and

WHEREAS, in Council Resolution No. 2003-200, Council approved issuing Requests for Proposals (RFP) to complete the SWMP update to three firms qualified under the City's Request for Qualifications (RFQ) process, and

WHEREAS Larry Walker and Associates was the only one of those three firms to return a proposal, which proposal provides for completion of the SWMP for a cost of \$298,767,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves award of a contract with Larry Walker and Associates in the amount of \$298,767 for the purpose of preparing the City's Storm Water Management Plan update.

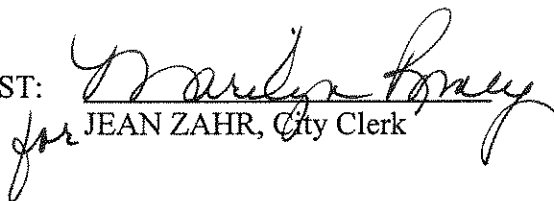
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


MICHEAL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-315**

**A RESOLUTION DESIGNATING HABITAT FOR HUMANITY AND
ASOCIACION CAMPESENA LAZARO CARDENAS, INC. (ACLC, INC.) AS
COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDOs)**

WHEREAS, the City of Modesto receives an annual entitlement from the Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships Program (HOME), and

WHEREAS, the total HOME allocation is divided into four categories with specified eligible uses, with two of these categories specifically committed to Community Housing Development Organizations (CHDOs), and

WHEREAS, a participating jurisdiction (PJ) must invest at least fifteen percent (15%) of its total HOME allocation in projects that are owned, developed or sponsored by CHDOs, and which result in the development of homeownership or renter units, and

WHEREAS, up to five percent (5%) of the total HOME allocation may be provided to CHDOs to help them pay their operating cost, and the use of HOME funds for CHDO operating cost is optional, and

WHEREAS, the intent of the provision is to promote partnerships between local government and non-profit organizations, and to expand non-profit organizations' capacity to develop and manage decent and affordable housing, and

WHEREAS, the CHDOs must meet certain requirements pertaining to their legal status, organizational structure, capacity and experience, and

WHEREAS, to receive a CHDO designation, the organization must be a legally recognized non-profit, community-based service organization committed and having the capacity to develop affordable housing in the community it serves, and

WHEREAS, staff has reviewed the Habitat for Humanity and ACLC, Inc.'s applications for designation as CHDOs and has determined that both organizations meet the basic HOME CHDO requirements, and

WHEREAS, approval of Habitat for Humanity and ACLC, Inc. as CHDOs will allow them to apply for the HOME CHDO set-aside funds and will make them eligible to apply for other HOME financial assistance such as operating assistance and predevelopment funds that are available only to CHDOs, and

WHEREAS, approval of Habitat for Humanity and ACLC, Inc. will also give the City two new partners to work with in carrying out the community's affordable housing programs, and

WHEREAS, the Citizens Housing and Community Development Committee recommended approval of this item at its May 5, 2003, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the designation of Habitat for Humanity and Asociacion Campesina Lazaro Cardenas, Inc. (ACLC, Inc.) as Community Housing Development Organizations (CHDOs) for Modesto's HOME Investment Partnership Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-316**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE MODESTO
CONVENTION AND VISITORS BUREAU (CVB) AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Modesto Convention and Visitors Bureau has provided
Convention and Visitors Bureau services as a City organization in fiscal year 2002/2003,
and

WHEREAS, funding for the Modesto Convention and Visitors Bureau is based on
Transient Occupancy Tax collections received by the City of Modesto, and

WHEREAS, the Modesto Convention and Visitors Bureau will operate as an
independent, non-profit corporation no later than July 30, 2003, and

WHEREAS, an agreement between the Convention and Visitors Bureau and the
City of Modesto which outlines the business relationship between the parties is needed,
and

WHEREAS, at their January 6, 2003, meeting, the Safety and Communities
Committee recommended draft bylaws for the Modesto Convention and Visitors Bureau
that reflected the same board structure as the Public Events Advisory Committee, and

WHEREAS, at their February 3, 2003, meeting, the Safety and Communities
Committee supported formation of an independent, non-profit corporation for the
Modesto Convention and Visitors Bureau and supported approval of the by-laws and
articles of incorporation, and

WHEREAS, on February 25, 2003, the City Council adopted Resolution 2003-
100 which established the Modesto Convention and Visitors Bureau as an independent,

non-profit corporation and adopting the bylaws and articles of incorporation for the Modesto Convention and Visitors Bureau as an independent, non-profit corporation, and

WHEREAS, at their June 2, 2003, meeting, the Safety and Communities Committee members supported the business points to be incorporated into the agreement with the Modesto Convention and Visitors Bureau and supported the Modesto Convention and Visitors Bureau Marketing Plan and Goals with performance measures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with the Modesto Convention and Visitors Bureau to provide convention and visitor bureau services.

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 June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-317**

A RESOLUTION ACCEPTING THE MODESTO CONVENTION AND VISITORS BUREAU 2003/2004 MARKETING PLAN AND GOAL.

WHEREAS, the Modesto Convention and Visitors Bureau has provided Convention and Visitors Bureau services as a City organization in Fiscal Year 2002/2003, and

WHEREAS, the role of the Modesto Convention and Visitors Bureau is to strengthen the local economy by marketing the City as a destination for meetings, conventions, sporting events, motor coach tours, film production, and leisure travel to the City of Modesto, and

WHEREAS, at their February 3, 2003, meeting, the Safety and Communities Committee supported formation of an independent, non-profit corporation for the Convention and Visitors Bureau and supported approval of the by-laws and articles of incorporation, and

WHEREAS, on February 25, 2003, the City Council adopted Resolution 2003-100 which established the Modesto Convention and Visitors Bureau as an independent, non-profit corporation and adopted the bylaws and articles of incorporation for the Modesto Convention and Visitors Bureau as an independent, non-profit corporation, and

WHEREAS, a marketing plan is needed to provide framework and strategies in which the Modesto Convention and Visitors Bureau will focus its efforts, and

WHEREAS, the Modesto Convention and Visitors Bureau will operate as an independent, non-profit corporation no later than July 30, 2003, and

WHEREAS, an agreement between the Modesto Convention and Visitors Bureau and the City of Modesto which outlines the business relationships between the parties is needed, and

WHEREAS, the Modesto Convention and Visitors Bureau Marketing Plan and Goals are incorporated into the final agreement between the Modesto Convention and Visitors Bureau and the City of Modesto, and are attached hereto as Exhibit "A", and incorporated herein by reference, and

WHEREAS, at their June 2, 2003, meeting, the Safety and Communities Committee members supported the Modesto Convention and Visitors Bureau Marketing Plan and Goals with performance measures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Modesto Convention and Visitors Bureau 2003/2004 Marketing Plan and Goals.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By


MICHAEL D. MILICH, City Attorney

Refreshingly different!
Modesto

Convention & Visitors Bureau

2003-04

(18-month 1/03-6/04)

**MARKETING PLAN
&
GOALS**

Executive Summary:

The role of the Modesto Convention & Visitors Bureau (bureau) is to strengthen the local economy by marketing the city as a destination for meetings, conventions, sporting events, motor coach tours, film production, and leisure travel to the City of Modesto and within Stanislaus County. This is done through; sales, advertising, public relations and promotions and by providing services to enhance the visitor experience. The goals and objectives are listed as different components within the bureau; Convention and Meeting, Sports, Film, Tourism, Public Relations and Administration. The concerted efforts within each component are vital to the overall success of the bureau.

Purpose of Marketing Plan:

The purpose of this marketing plan is to provide a framework and strategies in which the bureau will focus their efforts.

Marketing plan is written for an 18-month span to be reviewed and revised, if necessary, each fiscal year. Attached is a copy of the bureau budget for the fiscal year 7/02-6/03, a new budget will be written and adopted prior to July 2003.

Situation Analysis:

The impact of recent recession and world events on travel has created quite challenging times for our industry, generating a greater demand for increased sales and marketing efforts. Following September 11th, attacks travel and tourism industry has seen a dramatic drop in the flow of travel. California has fared better than the rest of nation, but has also seen a decrease and change in domestic and especially international travel expenditure. Within the state of California studies have shown that more Californians are traveling within the state for both leisure and business travel.

Modesto has been effective by the impact and seen a change in the booking patterns of travelers to our city for both business and leisure trips. We have seen a shorter time frame in which, groups, conventions, tournaments and travelers are booking. We have benefited from the change in Californians traveling more within the state. Our central location and affordability has proven to be a strong asset toward the convenience of leisure and business travelers, including conventions.

Impact of Tourism *:

Travel and Tourism is the third largest employer in the nation. Travel and tourism is a high growth industry that is forecast to more than double in size over the next decade. Along with telecommunication and information technology, travel and tourism is poised to be one of the three key components of the service led-economy of the 21st Century.

California received a total of an estimated 317 million "person trips" to and through the state in 2001. California residents made 266 million trips throughout California. California's travel and tourism industry generated \$75.4 billion in 2001, or 6% of the Gross State Product.

Stanislaus County has over 3.6 million people visiting annually with a direct expenditure of over \$340 million and tax receipts of over \$26 million.

*Sources: California Division of Tourism, Dean Runyan & Associates, DK Shifflet & Associates and SCTT

Market Strengths and Opportunities:

Our location, friendly service and affordability are key strengths in promoting Modesto as a destination. As meeting planners continue to face a variety of destinations to choose from they welcome the service and price packaging Modesto has to offer. A key asset for Modesto is our location and the convenience for attendees to drive to Modesto and/or fly into our city.

Following is a brief outline of some of our strengths and opportunities in marketing Modesto:

<u>Strength</u>	<u>Opportunities</u>
- Central Location	- Signage off Highways
- Air Service	- More Service
- Big City Amenities/Friendly Service-	
- Convention Center	- More space
- Convention Center adj/hotel	- More accommodations closer
- Variety of Meeting space	- More space
- Diversity of Weather	- Very Hot Days
- Diversity of facilities	- Brochure of facilities
- Variety of Accommodations	- More accommodations
- Affordable accommodations	
- Community based sports	- Expand the tournaments
- Variety of sporting outlets	- Development more outlets
- Variety of Activities/things to do	
- Upcoming performing arts center	
- Variety of music outlets	
- Variety of great restaurants	
- Variety of Shopping outlets	
- Ag tours	
- Outdoor recreation	

Market Weakness and Challenges:

One of our major challenges with relation to attracting regional and national meetings is the lack of local air service. The closest major airport is within a 2-hour drive to Modesto and can generally cause concerns expressed by meeting planners. Limited number of rooms available at one property can be a challenge in attracting larger conventions and groups to the Modesto area. Currently, a weakness for Modesto is the lack of a "brand/image" and current collateral marketing pieces to distribute.

Following is a brief outline of some of our weakness and challenges in marketing Modesto:

<u>Weakness</u>	<u>Challenges</u>
- Limited Air Service	- 2 hours to major airport
- Accommodations	- No hotel has more then 275 rooms
- Transportation to/from properties	- No local shuttle service
- No major attraction	- Creating packages/options
- Outside perception	- More advertising
- No branding	- Create a brand/image for Modesto
- Dated collateral material	- Designing creating new Destination guide

OBJECTIVE

The mission of the Modesto Convention & Visitors Bureau (Bureau) is to produce economic benefit for Modesto by effectively soliciting and providing quality services to conventions, meetings, tour groups and visitors.

BENCHMARK CRITERIA

(According to the City of Modesto)

	MODESTO	VISALIA	BAKERSFIELD	FRESNO
GOVERNANCE	Div of City	Div of Chamber	Independent	Independent
BUDGET	\$305,000 (a)	\$250,500 (b)	\$800,000 (b)	\$1,020,400 (b)
TOT TOTAL \$	\$1,776,300	\$1,190,000	\$5,000,000	\$6,000,000
TOT TAX %	9%	10%	12%	13%
BUDGET as % of TOTAL TOT (1)	13.33%	21%	16%	17%
TOT COLLECTED vs CVB SPENDING (2)	\$8 / \$1.00	\$4.75 / \$1.00	\$6.25 / \$1.00	\$5.88 / \$1.00
% HOTEL OCCUPANCY	61.9% (3)	68%	65%	63%

PERFORMANCE MEASURES

1. The Bureau will meet or exceed the TOT collected as associated with convention, film, sport and tour and travel vs. CVB spending ratio as compared to total TOT in 2002 and Visalia, Bakersfield and Fresno CVB's.
2. The hotel occupancy in Modesto will meet or exceed 95% of the average hotel occupancy rate over the 2002 calendar year in the greater Modesto area and in Visalia, Bakersfield and Fresno in FY 02/03.
3. The total TOT collected in FY 02/03 will meet or exceed \$2,000,000.00.
4. The total number of group leads to local hotels and /or Centre Plaza will meet or exceed 100, within convention, film, sports, and tour and travel markets. Based on these leads, at least 80 will result in actual booked events within the fiscal year 02/03.
5. The total number of visitors attributed to the efforts of the CVB will meet or exceed 38,000 delegates within the fiscal year 02/03.

STRATEGIES (Identified by Market Segments)

CONVENTION AND MEETING MARKET:

Market segments; SMERF (Social, Military, Educational, Religious & Fraternal)
Associations (State and Government)
Corporate (Larger annual conferences or conventions)

Objective: Effectively promote Modesto and the Modesto Centre Plaza as an ideal destination for conventions, meetings, conferences and seminars. Continually look into ways of expanding and enhancing Modesto's exposure to meeting planners via, world wide web, trade shows, sales blitz's and advertisement.

Staff: Convention Sales Coordinator

Goal:

- Produce 173 leads, generating 43,250 room nights.
- Produce a total of 38 future bookings, generating 9,500 room nights.

Action Plan:

Leads and Bookings:

A lead is defined as any pre-qualified group that wants to host a meeting or event in the Modesto area. A new lead is a piece of business that has not been in contact with any of the area hotels prior to requesting services from the CVB in reference to their visit to the Modesto area. Our goal is to generate 173 leads during the 18-month span.

A booking is defined as any lead that has signed a confirmed contract with a facility or hotel in the Modesto area. Our goal is to generate 38 meeting and convention booking for the 18-month span.

General/On-going Sales Calls:

Throughout the year meet with various meeting planners in efforts to maintain a strong working relationship. The CVB will emphasize telemarketing, person-to-person sales calls and follow-up calls, with the mission of heightening the awareness of CVB complimentary services and the various facilities and hotels available within the Modesto area. A sales calls can range from file updates to checking the status of leads and bookings both new and repeat business.

Direct Mailings:

Direct mailings will include flyers prior to trade shows and sales blitzes, meeting planner guides and visitor guides, newsletters and Modesto video "Refreshingly Different" Modesto (old copy).

Meeting Planners Guide;

The CVB will produce a four-color meeting planners guide. Designed specifically for Meeting Planners highlighting the meeting facilities in the Modesto area along with the services of the CVB. This guide will include facility layouts and detailed information on hosting an event in Modesto. It will also include a special two-page spread highlighting the Modesto Centre Plaza facilities and services.

Sacramento Meeting Planners Luncheon/Trade Show:

Coordinate a theme luncheon/tradeshow for Sacramento Association and Government meeting planners. We will take Modesto to Sacramento via a trade show featuring our local properties and attractions. Sacramento is a major feeder city for Modesto. This event will be a co-op effort with various local hotels sales staff.

Bay Area Meeting Planners Fam Trip:

Organize a local Fam Trip for State Association, Government and SMERF Meeting Planners. This will be an event in which, we will host a group meeting planners for a weekend in Modesto, showcasing our facilities, fine restaurants and diversity of things to do. This event will be a co-op effort with our local hotels, restaurants and attractions. This is an opportunity for to provide the meeting planners with a first hand experience of Modesto and the services of the bureau.

Trade Shows:

The CVB staff will attend five meeting and convention planner trade shows. Distributing meeting planner packets including our Destination Guide. The CVB will provide an opportunity for area hotels to co-op in partnership with the CVB in attending each trade show. We will also create a theme for each trade-show, highlighting Modesto in a unique and special fashion to heighten the meeting planners remembrance and interest in hosting their next event in Modesto.

Religious Conference Manager's Association Show (RCMA)

The CVB shall attend this national religious meeting planners trade show to maintain visibility and accessibility to the religious market with the goal of developing solid convention and meeting leads.

Society of Government Meeting Planners Show (SGMP)

The CVB will attend this Sacramento based Government meeting planners trade show. The CVB will obtain several leads and bookings from this event.

CalSAE Seasonal Spectacular

This is a holiday trade show for California Society of Association Executives. This show draws both state association and government-meeting planners from throughout the California area.

NCSAE Holiday Event

This is an annual holiday trade show for Northern California (Bay Area) Society of Association Executives. This event draws both state association and government meeting planners from throughout the Bay Area and all of California.

Christian Meetings and Market Trade Show

This will be the second show for this organization. This event is another religious trade show that is a bit smaller then RCMA, however offers a strong representation of meeting planners.

Professional Networking Memberships:

The CVB will keep an active membership and participation with the following associations, Sacramento Society of Meeting Planners, California Society of Association Executives, Northern California Society of Association Executives and Meeting Planners International, attending meetings and gatherings to build our relationships with meeting planners and their awareness of Modesto.

Modesto Greeters:

The CVB will continue to host a volunteer Modesto Greeters program. This is a group that is available to welcome and assist conventions once they arrive to Modesto. They warmly welcome visitors to Modesto, assisting them with questions on the area including directions to restaurants, shopping and overall inquiries.

Convention and Meeting Planner Services:

The CVB will continue the tradition of providing meeting planners complimentary assistance from providing site tours to choose the ideal meeting and or hotel facility, giving bid presentations and welcoming speeches, assist with confirming hotel rates and providing pre-typed name badges for all the delegates. We also will provide each delegate with a Modesto destination guide and a plastic convention bag.

Advertising:

The CVB will enhance its advertising to all market segments of meeting planners. The CVB will host listings in following directories; Meetings in the West, Western Association of Convention and Visitors Bureaus, California Society of Association Executives, Northern California Society of Association Executives Religious Conference Management Association and Sacramento Government Meeting Planners guide.

The CVB will place a ½ page ad in the Annual Statewide Society of Association Executives Directory along with key meeting planner publications.

The CVB will place a ¼ page ad in the Annual Sacramento Government Meeting Planner Guide.

Web Site:

The CVB will provide an outline of the Meeting Planner's Section of our destination guide and the bureau's convention and meeting planners services available online. We will also provide links to area facilities from our web site to assist the planner's needs. We will also connect with area facilities and groups to enhance the exposure to our web site. We will include a special link to the Modesto Centre Plaza facilities and services.

TOURISM MARKET:

Market segment: Motor coaches and tour busses. FIT-Frequent Individual Traveler and Leisure Traveler.

Objective: To continue to build upon the existing tour groups that stay-over in Modesto, typically on their way to the foothills or Yosemite National park along with those passing through Highway 99 going north or south.

To develop an Ag Tourism Committee that focuses on enhancing a network of Ag related businesses that are tourism (group) friendly. Develop and enhance opportunities for Ag interest tour groups to visit Modesto domestically and internationally.

Staff: Bureau Manager

Goal:

- Produce 38 leads, generating 1,520 room nights.
- Produce a total of 15 future bookings, generating 600 room nights

Action Plan:

Leads and Bookings:

A lead is defined as any pre-qualified group that overnights in the Modesto area. A new lead is a piece of business that has not been in contact with any of the area hotels prior to requesting services from the CVB in reference to their visit to the Modesto area. Our goal is to generate 38 leads during the 18-month span.

A booking is defined as any lead that has signed a confirmed contract with a facility or hotel in the Modesto area. Our goal is to generate 10 motor coach and or tour bus booking during the 18-month span.

General/On-going Sales Calls:

Throughout the year establish a working relationship with local area Tour Operators sharing the services and resources of the CVB.

The CVB will contact area tour group destinations strengthening the relationship with the CVB and building a network resource for tour operators.

The CVB will emphasize telemarketing, person- to- person sales calls and follow-up calls, with the mission of heightening the awareness of tours available in the Modesto area along with the variety of hotel facilities available. A sales calls can range from file updates to checking the status of leads and bookings both new and repeat business.

Direct Mailings:

The CVB will design a special flyer/brochure to highlight tours available in the Modesto area, to send out as a direct mailer to various tour operators and travel agencies, both domestically and internationally. Direct mailings will include flyers prior to trade shows and sales blitzes, including our visitor guide.

Graffiti Summer:

(Graffiti Summer Steering Committee will develop outline of goals for the committee that will be an addendum to this Marketing Plan)

The Graffiti Summer Committee will be lead by a member of the Public Events Advisory Committee. The CVB will work closely with the Modesto Chamber of Commerce and the Stanislaus County Travel and Tourism Roundtable to gather different community leaders to join us in promoting a Graffiti Summer theme for Modesto during the month of June and then expanding to be year-round.

Ag Tourism Committee:

(Ag Tourism Committee will develop outline of goals for the committee that will be an addendum to this Marketing Plan)

To develop an Ag Tourism Committee a member of the Public Events Advisory Committee will chair that. The goal of this committee will be to focus on enhancing a network of Ag related businesses that are tourism (group) friendly.

To design a program to attract tour operators for domestic and international market share. To streamline communication and involvement with the Agriculture businesses throughout Modesto and Stanislaus County with the CVB. To design a brochure that will highlight Ag tourism in our area.

Tour Operators Fam Trip:

Organize a local Fam Trip for State-wide Tour Operators. This will be an event in which, we will host a group of tour operators for a weekend in Modesto, showcasing our facilities, fine restaurants and attractions. This event will be a co-op effort with our local hotels, restaurants and attractions and the Stanislaus Travel and Tourism Roundtable. This is an opportunity for to provide the tour operators with a first hand experience on Modesto and Stanislaus County and the services of the bureau.

Trade Shows:

The CVB staff will attend two tour market trade shows. Distributing visitor guides and tour sample itineraries for tour operators and travel agents. The CVB will provide an opportunity for area hotels to co-op in partnership with the CVB in attending each trade show. We will also create a theme for each trade-show, highlighting Modesto in a unique and special fashion to heighten the things to visit in Modesto and enhancing their interest in booking their next group to Modesto.

Professional Networking Memberships:

The CVB will keep an active membership and participation with the following associations, CalTIA – California Travel Industry Association – California Division of Tourism Rural Marketing Advisory Committee and the Central Valley Tourism Association, attending meetings and gatherings to build our relationships with state and regional representatives and tour planners.

The CVB will work closely with the Stanislaus County Ag Center, Pavilion Learning Center and their Harvest Trails.

Advertising:

The CVB will enhance its advertising to the tour operators. The CVB will host listings in following directories; Central Valley Tourism Association, American Destinations, National Tour Association and California Visitors Guide and Travel Planner.

The CVB will place a 1/6 page ad in the Official California Visitors Guide and Travel Planner and we will place an ad in the Central Valley Tourism brochure and ad in the California Visitors Guide.

Web Site:

The CVB will provide an outline of the things to do in Modesto and we will highlight various tours including sample itineraries. We will also provide links to area attractions and facilities from our web site to assist the visitor's needs. We will also connect with area attractions and groups to enhance the exposure to our web site.

SPORTS MARKET:

Market segment: All youth and adult sports both indoor and outdoor events.

Objective: To strengthen the enthusiasm of bringing major sporting events to the Modesto area. To continue to build upon the existing events, tournaments that take place in Modesto. To encourage coaches and teams to bid for regional, state, national and international completions in our area. Both amateur and professional sports. To enhance the awareness of the facilities we host in the Modesto area.

To develop a Sports Commission that will enhance and strengthen our marketing efforts for sporting events on a statewide and national level.

Staff: Sports and Film Sales Coordinator

Goal:

- Produce 83 leads, generating 29,050 room nights.
- Produce a total of 38 future bookings, generating 13,300 room nights

Action Plan:**Leads and Bookings:**

A lead is defined as any pre-qualified group that overnights in the Modesto area. A new lead is a piece of business that has not been in contact with any of the area hotels prior to requesting services from the CVB in reference to their visit to the Modesto area. Our goal is to generate 83 leads during the 18-month span.

A booking is defined as any lead that has signed a confirmed contract with a facility or hotel in the Modesto area. Our goal is to generate 38 sports booking for the during the 18-month span.

General/On-going Sales Calls:

Throughout the year establish a working relationship with local area sports facilities and area coaches sharing the services and resources of the CVB.

The CVB will emphasize telemarketing, person- to- person sales calls and follow-up calls, with the mission of heightening the awareness of sport facilities available in the Modesto area along with the variety of hotel facilities available. A sales calls can range from file updates to checking the status of leads and bookings both new and repeat business.

Direct Mailings:

The CVB will design a special flyer/brochure to highlight the facilities available in the Modesto area, to send out as a direct mailer to various sports planners and coordinators.

Sports Commission:

(Sports Commission will develop outline of goals for the commission that will be an addendum to this Marketing Plan)

To develop a Sports Commission that will be lead by a member of the Public Events Advisory Committee. The goal will be to develop a commission with a variety of representatives from different sports related interest, joining businesses, teams and facilities together. Including City Parks, Recreation and Neighborhood department, Modesto Junior College, Stanislaus State University along with various key established sporting events (Modesto Relays). To enhance and strengthen our marketing efforts in attracting major sporting events on a regional, statewide, national and international level.

Trade Shows:

The CVB staff will attend one sports related trade show. Distributing visitor guides and sports facilities flyer. The CVB will provide an opportunity for area hotels to co-op in partnership with the CVB in attending this trade show. We will create a theme for the trade-show.

Professional Networking Memberships:

The CVB will keep an active membership and participation with the National Sports Commission Association, attending meetings and gatherings to build our relationships with state and regional representatives and sports coordinators.

Advertising:

The CVB will enhance its advertising to sports planners. The CVB will host listings in key sports directories and publications.

Web Site:

The CVB will provide an outline of sports facilities in the Modesto area. We will also provide links to area facilities from our web site to assist the visitor's needs. We will also connect with area facilities and groups to enhance the exposure to our web site.

FILM MARKET:

Market segment: All areas of filming from commercials to movie productions.

Objective: To attract members of the film industry to the Modesto area for the filming of commercials, movies and feature films. To strengthen the film commission, which is a collaborated effort of businesses in bringing films to our area along with being a network of resources for leads and scouts. To become a leader and key contact for any film related event within Modesto and Stanislaus County.

Staff: Sports and Film Sales Coordinator

Goal:

- Produce 20 leads, generating 1,000 room nights.
- Produce a total of 5 future bookings, generating 200 room nights

Action Plan:

Leads and Bookings:

A lead is defined as any pre-qualified group that overnights in the Modesto area. A new lead is a piece of business that has not been in contact with any of the area hotels prior to requesting services from the CVB in reference to their visit to the Modesto area. Our goal is to generate 20 leads during the 18-month span.

A booking is defined as any lead that has signed a confirmed contract with a facility or hotel in the Modesto area. Our goal is to generate 5 film/commercial related bookings for the 18-month span.

Photo Library:

The CVB will create and design a local photo contest to help in building a photo library on own web site for film scouts to review online. The CVB will work with local agencies and contacts to add photos to the photo library highlighting the Modesto area and the wide variety of themes.

General/On-going Sales Calls:

Throughout the year establish a working relationship with local area chambers, and filming service clients sharing the services and resources of the CVB.

The CVB will emphasize telemarketing, person- to- person sales calls and follow-up calls, with the mission of heightening the awareness of facilities available in the Modesto area along with the variety of hotel facilities available. A sales calls can range from file updates to checking the status of leads and bookings both new and repeat business.

Trade Shows:

The CVB staff will attend one film related trade show. Distributing visitor guides and production directories. The CVB will provide an opportunity for area hotels to co-op in partnership with the CVB in attending this trade show. We will create a theme for the trade-show.

Production Directory:

The CVB will create and design a production directory both in print and online. This directory will be a great resource and sales tools for attracting film scouts to choose our area for their next piece. Highlighting our guidelines for permits.

Film Commission:

(Film Commission will develop outline of goals for the commission that will be an addendum to this Marketing Plan)

To enhance the Film Commission that will be lead by a member of the Public Events Advisory Committee. The goal will be to enhance the commission's membership of representatives from a variety of film related interest. To meet monthly, providing advice and guidance to the Film Commissioner and various projects for the film department. To assist in scouting locations and leads for Modesto and Stanislaus County.

Professional Networking Memberships:

The CVB will keep an active membership and participation with the California Film Commission, attending meetings and gatherings to build our relationships with state and regional representatives.

Advertising:

The CVB will enhance its adverting to the film industry. The CVB will host listings in key location directories and publications, including Blu-Book, webmovie.com, LA411 Publications, The Reel Directory, Locations Update, Cinema Scout, Producers Master Guide, Kemps Directory, Studio Directory, California Film Commissioners Directory, FLICS fax location request.

Web Site:

The CVB will provide an outline of photos and film services in the Modesto area. We will also provide links to area facilities from our web site to assist the visitor's needs. We will also connect with area facilities and groups to enhance the exposure to our web site.

Film Festival:

The CVB will design and arrange for a Film Festival to take place in Modesto. To coordinate a partnership with the Modesto Junior College and other local businesses. To develop a theme highlighting the movie "American Graffiti" a major film on the Modesto area. This will be a key event to enhance the exposure of the filming possibilities in Modesto along with highlighting a local awareness of the economic impact of the filming industry.

PUBLIC RELATIONS AND VISITORS INFORMATION:

Independence:

The City of Modesto will continue to pursue to separate the CVB into an independent 501 (c) 6, non-profit organization. This will be a process to set-up a new structure, board of directors, by-laws and guidelines for an independent CVB.

Local:

Continue to educate the local community on the impact of tourism to Modesto. Educate the community of the role/purpose of a CVB along with, the complimentary services available to meeting and event planners. The CVB will provide opportunities for businesses to partner with the CVB marketing efforts. The CVB will work actively with local meeting planners and key contacts encouraging them to bid to host for their associations meetings and events in Modesto.

We will host an appreciation reception to acknowledge all local and key representatives that play active role in pursuing an event, meeting, and convention to the Modesto area.

County:

Continue participation and partnership in regional efforts to increase travel and tourism to our area. These efforts currently include the Stanislaus County Regional Roundtable on Travel and Tourism. We will work with the County to review the possibilities of developing a Countywide CVB.

Regional:

Continue to participation in the Central Valley Tourism Association to increase travel and awareness of Modesto within the Central Valley and the State of California. This association is a co-op membership of CVB's from throughout the Central Valley from Davis to Kern County.

We are currently active on the Executive Board of this association. Bureau Manager is acting President.

State:

Continue to participate with the State of California Office of Tourism and the various marketing programs and committee. Bureau Manager is a member of the Rural Marketing Advisory Committee.

Hotel Council:

The Hotel Council will be lead by a member of the Public Events Advisory Committee. The CVB will remain active with the structure and gathering of the Modesto Hotel Council. Meetings are held every other month keeping the hotels up-to-date on the CVB's marketing programs, encouraging their participation as appropriate, and to stimulate communication within the local hotel community.

The CVB will continue to work towards developing a plan to integrate the involvement, participation and financial contribution of the hotel properties outside of the City of Modesto city limits and within the Stanislaus County.

Marketing Committee:

The Marketing Committee will be lead by a member of the Public Events Commission. The CVB will work closely with a group of volunteer marketing professionals to assist with the development and direction of the CVB marketing pieces. From the CVB Destination Guide Web Site, CD, New Trade Show Booth, Marketing brochure and various print ads.

Destination Guide:

The CVB will produce a new 32-page full color visitor's guide of the Modesto area. This guide is magazine style. We will mail the guide to visitor request via the mail, email, and phone including the toll-free line.

Visitors Center:

The CVB will maintain the lobby area as a visitor information center. We will keep the brochure racks full with local information highlighting things to do, places to eat and where to stay in Modesto. The CVB will also sell some local Modesto keepsake items, example, t-shirts, sweatshirts, mugs, and wine glasses to list a few items. The CVB will host signage inside the Doubletree Hotel and the Modesto Centre Plaza directing visitors to our Visitor Information Center.

The CVB will also work with Cal Trans to have appropriate signage off Highway 99 and Maze Exit for directional signage to the Visitor Center.

Web Site:

The CVB will host an interactive, up-dated web site. We will host all the services of the CVB and special market emphasis for each area. We will include all the information we have in print form including a photo library and a community calendar of events.

Marketing CD:

The CVB will produce a new CD that is similar to a Destination Guide on a CD. This is a very interactive and new marketing concept that is becoming very popular for the traveler and especially meeting planners.

Newsletter:

The CVB will produce a new electronic quarterly newsletter that will highlight various bureau news updates along with a special emphasis on groups and events coming to Modesto.

ADMINISTRATION:**Association Memberships:**

The CVB will retain an active membership with the following associations:

- WACVB** (Western Association of Convention and Visitors Bureaus)
 - CVTA** (Central Valley Tourism Association)
 - FLICS** (Film Liaisons in California Statewide)
 - NTA** (National Tour Association)
 - CSAE** (Calif. Society of Association Executives)
 - MPI** (Meeting Planners International) Sacramento Chapter
 - CALTIA** (California Travel Industry Association)
 - RCMA** (Religious Conference Managers Association)
 - SGMP** (Society of Government Meeting Planners)
 - NSCA** (National Sports Commission Association)
 - STTR** (Stanislaus County Regional Roundtable on Travel & Tourism)
- (Agriculture Association to strengthen our knowledge and position with Ag Tourism)

Speaking Engagements:

The CVB will accept speaking engagements and make presentations to create more public awareness of the CVB, and to encourage local organizations to bid for their organizations convention and or event.

The CVB will work with local radio and cable stations to develop a strong link of communication, providing updates on events and groups coming to Modesto.

Reports:

The CVB staff will keep actuate and up-to-date monthly reports on the contacts made, sales leads generated, bookings, trade shows, servicing accounts, lost business reports. We will supply monthly TOT reports, financial status, group tracking and committee updates, etc.

Training:

The CVB staff will participate in various training opportunities as deemed appropriate for the effectiveness and direction of the CVB goals and marketing plan.

Bureau Manager will complete certification as a Destination Management Executive with International Association of Convention and Visitors Bureaus.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-318**

A RESOLUTION EXTENDING THE PROVISIONAL APPOINTMENT OF THE CULTURAL SERVICES MANAGER, TWO (2) ASSISTANTS TO THE EVENTS COORDINATOR AND ONE (1) .75 ADMINISTRATIVE OFFICE ASSISTANT II FOR UP TO THIRTY (30) UNTIL NO LATER THAN JULY 30, 2003.

WHEREAS, the Modesto Convention and Visitors Bureau has provided Convention and Visitors Bureau services as a City organization in fiscal year 2002/2003, and

WHEREAS, by motion on June 25, 2003, the City Council accepted a staff report regarding the transition of the Convention and Visitors Bureau to a City organization in the Parks, Recreation and Neighborhoods Department, and

WHEREAS, contained in said staff report was the recommendation to approve provisional appointments for one (1) Cultural Services Manager, two (2) Assistants to the Events Coordinator, and one (1) .75 Administrative Office Assistant, for a period of up to one year, ending on June 30, 2003, and

WHEREAS, the Modesto Convention and Visitors Bureau will operate as an independent, non-profit corporation no later than July 30, 2003, and

WHEREAS, at the June 24, 2003, meeting, by Resolution No. 2003- 316, the City Council approved an agreement between the Convention and Visitors Bureau and the City of Modesto which outlines the business relationship between the parties, and

WHEREAS, to provide continuity of employees until such time as the Convention and Visitors Bureau can operate as a non-profit, the provisional appointments for the employees need to be extended for a period not to exceed thirty (30) days, until no later than July 30, 2003,


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves extending the provisional appointment of one (1) Cultural Services Manager, two (2) Assistants to the Events Coordinator, and one (1) .75 Administrative Office Assistant for a period not to exceed thirty (30) days, until no later than July 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-319**

A RESOLUTION APPROVING THE CREATION OF A NEW MINOR HOME REPAIR GRANT PROGRAM, FUNDED WITH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING

WHEREAS, the Recreation and Neighborhood Services Division currently has a loan program called the Emergency Home Repair Program/Disabled Access Assistance Program (EHRP/DAAP) that assists low to moderate-income households with critical repairs to their homes, such as roof repairs, electrical and plumbing issues; however, the EHRP/DAAP does not cover mobile homes because of the collateral issue on deferred payment loans, and

WHEREAS, staff receives an average of two to three inquiries per month for assistance that do not qualify as an “emergency” and which are requests for small repairs, such as a broken water heater, leaking faucets, overloaded circuit breaker box, etc., and

WHEREAS, these repairs are so small they could be better served through a grant, not a loan, because a loan would include title fees that would dramatically increase the cost of the repair, and

WHEREAS, the cost of staff time in processing, servicing, and loan follow-up does not warrant making a small loan, and since the repair is needed immediately, the grant program would allow for more timely repairs, and

WHEREAS, staff receives many requests for small repairs from mobile home owners, who tend to be in the very low-income category, and

WHEREAS, the funding source for the proposed program is \$16,853 in CDBG funds, from payoffs from participants of a former stipulated grant program available for rehabilitation of rental units, and

WHEREAS, staff recommended the creation of this new Minor Home Repair Grant Program to the Housing Rehabilitation Loan Committee on April 17, 2003, and to the Citizens Housing and Community Development Committee on June 3, 2003, and both committees approved staff's recommendation for creating the new Minor Home Repair Loan Program, and

WHEREAS, staff has developed guidelines for the Minor Home Repair Grant Program, attached hereto as **Exhibit "A"** and incorporated herein by reference,

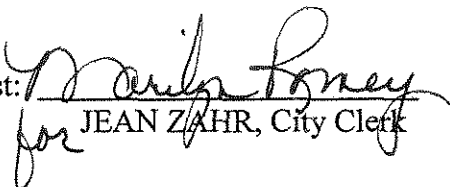
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the creation of new Minor Home Repair Grant Program, in the amount of \$16,853.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:


AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
for JEAN ZÄHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

MINOR HOME REPAIR GRANT PROGRAM

This grant program is designed to allow low-income households within the city limits of Modesto to correct minor defects in their home and enhance the physical quality of their living environment. The word "home" means single family dwelling, a mobile home, manufactured housing, or factory-built housing.

Many times, home repairs are needed which are small and inexpensive. Real property is eligible under other City programs, but it is not conducive to making a loan on small items, such as water heaters and heater repairs. Mobile home repairs are not eligible under other City programs. There is a need for this type of grant program due to budget cuts to other government-funded programs within Stanislaus County.

Program Limit

This program is a grant program. There is a one-time household limit of \$1,000 for mobile homes/modular homes and a \$500 grant limit for single-family homes. The unit must be owner occupied and be within the city limits of Modesto.

This grant program is limited to one grant per household. The homeowner must agree to repay the grant money received if the home is sold within 12 months of receiving the grant.

Income Limits

The program is available to any Modesto household that has a gross annual household income of 50% or less of the Median Area Income as established by the Department of Housing and Urban Development. The income is based on current and anticipated income by all adult members of the household during the next 12 months. Income is verified by pay stubs, award letters, copies of checks, bank statements, and any other means as determined by the City of Modesto in compliance with HUD regulations. The homeowner should have no other financial means of assistance to them for the repairs.

Eligible Repairs

Water heaters, leaking faucets, toilets, non-operating sinks, furnaces, small electrical hazards, air conditioners (upon proof of medical need), wheelchair ramps, grab bars, disability accessibility items, steps to mobile home, roofs, cracked or broken windows, weatherization enhancements, energy conservation improvements, or any other health and safety hazard approved by the Deputy Director of Parks, Recreation and Neighborhoods. No general property improvements are eligible under this grant program.

Minor Home Repair Grant Program Procedures

1. The Housing Financial Specialist receives a telephone inquiry concerning the Emergency Home Repair Program/Disabled Access Assistance Program. If the call is concerning a mobile home in the City, the Housing Financial Specialist will explain the use of the Minor Home Repair Program (MHRP). If the call is for a single family dwelling, the Housing Financial Specialist will ascertain the scope of services needed and will explain either the MHRP or the EHRP/DAAP, as applicable. Preliminary information on income and ownership will be verified.
2. If it appears that this household will be using the grant program, the Senior Housing Rehabilitation Specialist, or designee, will inspect the property to verify conditions and possible use of grant program. The Senior Housing Rehabilitation Specialist, or designee, will give the homeowner the grant application. If the unit is a single family dwelling and the cost of the scope of eligible repairs is estimated to be more than what is available under the MHRP, the Senior Housing Rehabilitation Specialist, or designee, will explain the EHRP/DAAP program to the homeowner. After the inspection, the Housing Financial Specialist will mail the homeowner the EHRP/DAAP application packet and the loan will proceed under the Guidelines of Chapter 12 of the Policy and Procedures Manual, "Emergency Home Repair Program/Disabled Access Assistance Program."
3. The Housing Financial Specialist will meet with the grant applicant to verify eligibility and a review of the grant application.
4. For labor and materials of \$500 or more:
The homeowner must submit two written cost estimates/proposals from licensed contractors. The homeowner will indicate which contractor is their preference. If the homeowner selects the higher estimate as their preference, and the difference from the comparable estimates is less than 5%, the higher estimate can be chosen. If the higher estimate exceeds the 5% tolerance, the higher estimate can only be selected upon the special approval of the Housing Program Supervisor.

In special circumstances, these procedures may be waived by the Deputy Director of Parks, Recreation, and Neighborhoods.

5. For labor and materials less than \$500:
The homeowner must submit a written estimate from a qualified person for the labor and materials needed for the repair. Labor costs are not covered if the qualified person is a blood relative of the property owner or their spouse. If a blood relative is doing the repairs, the property owner must submit documentation as to the cost of the materials. Staff will review all estimates and documentation to verify their completeness and to verify if reasonable.

6. Upon grant approval by Deputy Director of Parks, Recreation and Neighborhoods, homeowner(s) will be asked to sign a Grant Agreement in which the owner(s) agrees to repay the grant if the house is sold to an ineligible person within 12 months of completion of repair work. The Grant Agreement will serve as approval letter to the homeowner and the contractor selection or the qualified person who will perform the work. The agreement will also include directions for the steps to be taken following approval and the 90-day expiration date for the work to be completed. The Grant Agreement will be signed by the Deputy Director on behalf of the City.
7. Upon receiving the invoice from the approved contractor, qualified person, or request for reimbursement from the homeowners, the Senior Housing Rehabilitation Specialist, or designee, will inspect the repair work to verify that it was completed in a satisfactory manner. The Senior Housing Rehabilitation Specialist, or designee, and the homeowner will sign a Check Request Form. The Housing Financial Specialist will process the Check Request with the City Finance Department for payment.
8. Twelve months from the date of payment of grant, the Housing Financial Specialist will verify that the home has not been sold. If it has been sold, a letter will be mailed to the grant recipient requesting immediate repayment of the grant received.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-320**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND YOSEMITE COMMUNITY COLLEGE DISTRICT AND
MODESTO JUNIOR COLLEGE FOR PARTICIPATION IN THE SUBSIDIZED
FEDERAL WORK STUDY PROGRAM FOR THE 2003-2004 PROGRAM YEAR.**

WHEREAS, the Modesto Junior College has offered the City the opportunity to participate in the Federal Work-Study Program, and

WHEREAS, the program offers eligible students an opportunity to pay for educational expenses by working while attending school, and

WHEREAS, students are paid \$7.25 per hour, with the Federal government subsidizing 75% of this amount, and the City being responsible for 25% of the amount,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Yosemite Community College District and Modesto Junior College for participation in the subsidized Federal Work Study Program for the 2003-2004 program year, be and it is hereby approved.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-321**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND YOSEMITE COMMUNITY COLLEGE DISTRICT AND
MODESTO JUNIOR COLLEGE FOR PARTICIPATION IN THE SUBSIDIZED
CalWORKS WORK STUDY PROGRAM FOR THE 2003-2004 PROGRAM
YEAR.**

WHEREAS, the CalWORKS (CWS) Work Study Program offers employment opportunities for students at a reduced cost to the City of Modesto, and

WHEREAS, the students on the CWS Program gain valuable work experience, skills, and social responsibility, and

WHEREAS, CalWORKS subsidizes 50% of the \$7.25 hourly wage for the students, and

WHEREAS, the City of Modesto bills the Yosemite Community College District on a monthly basis for 50% of the student's monthly salary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Yosemite Community College District and Modesto Junior College for participation in the subsidized CalWORKS Work Study Program for the 2003-2004 program year, be and it is hereby approved.

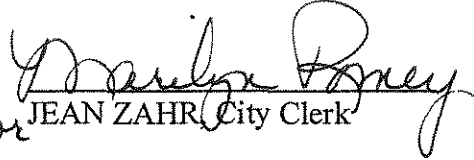
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute this agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 322**

**A RESOLUTION AUTHORIZING THE ACTING RISK MANAGER TO BIND
PROPERTY AND BOILER & MACHINERY INSURANCE FOR THE CITY OF
MODESTO OWNED AND/OR OPERATED PROPERTIES AND AUTHORIZING
THE CITY MANAGER TO EXECUTE THE RENEWAL AGREEMENT FOR
THE INSURANCE**

WHEREAS, since 1993, Driver-Alliant Insurance Services has been the broker of Record for the City's property-related needs, and

WHEREAS, Driver has developed a joint-purchasing group of clients called PEPiP (Public Entity Property Insurance Program) which includes over 2,800 public entities in 7 different states with over \$70 billion in insured values, and

WHEREAS, PEPiP's loss experience, coverage form and pricing have been the most competitive in the industry, and

WHEREAS, renewal of said insurance is due on May 30, 2003, and

WHEREAS, staff has received the initial renewal quote that provides for a rate decrease of 6 ½% for property and boiler & machinery coverage due to stabilization in the market and City of Modesto's favorable loss record, and

WHEREAS, based upon policy direction from Council, staff will bind the insurance coverage through PEPiP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Acting Risk Manager is hereby authorized to bind property and boiler & machinery insurance coverage as presented by the City's Broker of Record pursuant to Council direction.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the renewal agreement for property and boiler & machinery insurance coverage and pay the quoted premiums.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


for JEAN ZAHR, City Clerk

(Seal)

APPROVED AS TO FORM

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-323**

**A RESOLUTION FINDING "UNITED CABLE/COMCAST" TO BE IN
MATERIAL BREACH OF THE CABLE TELEVISION FRANCHISE AND
IMPOSING PENALTIES.**

WHEREAS, United Cable Television Corporation, a subsidiary of Comcast (hereinafter "United Cable/Comcast") holds a cable television franchise in the City of Modesto, and

WHEREAS, on May 14, 2003, the City Manager issued a Notice of Breach of the Comcast's Cable Television Franchise based on United Cable/Comcast's failure to complete the grounding corrections within the time provided for in the Franchise Documents, and

WHEREAS, on June 24, 2003, the City Council held a noticed public hearing on whether United Cable/Comcast was in breach of its obligation to complete the grounding corrections on or before March 14, 2003 as required under the Franchise Documents, and to determine the appropriate remedy for such breach, and

WHEREAS, the City Council has considered all of the testimony, both oral and written, received by the City Council at or before the hearing on June 24, 2003,

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

SECTION 1. FINDINGS; MATERIAL BREACH OF THE CABLE TELEVISION FRANCHISE. The City Council hereby finds and determines, based on the evidence submitted at the hearing and on the staff report, which is incorporated herein, that United Cable/Comcast is in material breach of its obligation to correct the grounding of the cable system as required by the Franchise Documents.

a. Franchise Documents. As used in this Resolution, the "Franchise Documents" include the following: the Settlement Agreement between Cable One and the City of Modesto dated February 13, 2001; Ordinance No. 3203-C.S. approving the transfer of the cable television franchise from Cable One to United Cable Television Corporation; the Certificate of Acceptance of the Transfer executed by United Cable Television Corporation on March 7, 2001; the Franchise Ordinance (Article 11, Chapter 4 of the City Municipal Code, as amended) the Franchise Renewal Agreement, as adopted by Ordinance No. 3223-C.S., and the Certificate of Acceptance of the Franchise Renewal dated June 11, 2001), Resolution No. 2002-299, approving the change in control by reason of the merger of AT&T Broadband and Comcast; and the Certificate of Acknowledgment of the Approval of the Change of Control executed by AT&T Comcast.

b. In reaching its determination that United Cable/Comcast is in material breach of the Franchise, the Council makes specific reference to the following:

1. The current franchisee is United Cable Television Corporation ("United Cable"). United Cable was a subsidiary of AT&T Broadband when United Cable acquired the Modesto cable franchise on March 7, 2001. On November 18, 2002, by reason of the merger of AT&T Broadband and Comcast, United Cable became a subsidiary of AT&T Comcast, now known as Comcast.

2. Ordinance No. 3203-C.S. approving the transfer from Cable One to United Cable provides, in pertinent part:

"AT&T Broadband [United Cable] acknowledges that failure to perform these improvements and corrections [including grounding] within the times set forth in the settlement agreement shall constitute a material breach of the franchise. (Id. at Section 2.F.)

"AT&T Broadband [United Cable] agrees to complete, within the times set forth on Exhibit D, the grounding requirements set forth on Exhibit D." (Id. at Section 4.3.)

Exhibit D to Ordinance No. 3203-C.S. sets forth the requirements for grounding and the times for grounding. Exhibit D further establishes the methodology for the verification inspection to determine if the grounding corrections have been completed as required by Ordinance No. 3203-C.S.

3. The Certificate of Acceptance of the Franchise executed by United Cable states that United Cable:

" unconditionally, irrevocably, and without reservation accepts the Cable Television Franchise. . . . including Ordinance No 3203-C.S."

"Covenants and promises to faithfully undertake and perform each and every promise, covenant, commitment and undertaking contained in the Franchise Ordinance;

"Expressly declares and agrees to comply with each and every term, condition, and agreement contained in Ordinance No 3203-C.S., approving the transfer of control."

4. Under the terms of Ordinance No. 3203-C.S. Exhibit D, United Cable was required to inspect all drops to determine grounding code compliance status. United Cable was to deploy scheduled crews to inspect, make code corrections as necessary, and add tracking codes to its subscriber management system. All phases on the grounding corrections and repairs were to be complete within 24 months of the transfer date. At the time of completion, the City was to conduct a statistically accurate (+/- 3%) verification inspection. Completion of the grounding repairs required demonstration of 90% compliance.

5. The transfer date for the Cable One to United Cable transfer was March 7, 2001.

6. Throughout the correction period, United Cable/AT&T Broadband provided written and verbal progress reports to the City that indicated that the grounding project was underway and was on or ahead of schedule for completion by March 2003.

7. Resolution 2002-299 approving the change in control by reason of the merger of AT&T Broadband and Comcast provided that:

"F. Nothing in this Resolution or in the City's consent to this change in control shall be construed, in any manner whatsoever, by AT&T Broadband, AT&T Comcast, or any of the subsidiaries of AT&T Comcast, as precluding or impacting the City's ability or authority to address any act(s) of noncompliance by Franchisee or failure(s) to act by Franchisee, pursuant to the terms of the Franchise Agreement and the Franchise Ordinance. In particular, and without limiting the forgoing, Franchisee, in acquiring the cable system in Modesto, as part of the transfer approval from Cable One, and incorporated in the Franchise Agreement, agreed as follows:

"AT&T Broadband has acknowledged and agreed that, pursuant to the settlement agreement between Cable One and the City, the transfer ordinance approving the transfer to AT&T Broadband and the franchise Renewal Agreement, AT&T Broadband was and is currently required to perform certain physical improvements and corrections, and that these improvements and corrections were a condition of the Cable One/AT&T Broadband transfer and are binding on AT&T Broadband. AT&T Broadband has acknowledged that failure to perform these improvements and corrections within the times set forth in the settlement agreement shall constitute a material breach of the franchise. Execution and delivery of the certificate of acceptance of the franchise by AT&T Broadband constituted its agreement to be bound to this condition and to the terms of this Resolution, and the Franchise Agreement including, without limitation, the conditions requiring physical improvements and corrections to the cable system."

8. The Certificate of Acknowledgment of the approval of the change of control by reason of the merger of AT&T Broadband and Comcast acknowledges that the change in control does not "affect, diminish, impair or supercede the binding nature of the commitments of United Cable" and that AT&T Comcast "will use its best efforts to ensure that the Franchisee complies with its obligations under the Franchise Documents." (Section 1)

9. The City Council finds that the merger and change in control does not provide an excuse or reason for any extension in the time for compliance with the grounding obligations.

10. Kramer.Firm, Inc. conducted the verification inspection in late March and early April 2003. A copy of the report of this inspection is on file with the City Clerk and was provided to Comcast and to the City Council. The results of the inspection showed that only 71.3333% of the locations inspected were grounded in compliance with grounding requirements of the City's Municipal Code adopting the National Electrical Code rather than the required 90%. Therefore, Comcast has not demonstrated compliance with the grounding requirement.

11. Based on the foregoing, the City Council hereby finds United Cable/Comcast in material breach of the Franchise by reason of its failure to complete the required grounding corrections in the manner and within the time set forth on Exhibit D of Ordinance 2303-C.S.

SECTION 2. PUBLIC SAFETY. The City Council further finds and determines that the grounding corrections are required for the public health and safety. Grounding of the cable system is required by the National Electrical Code, adopted by

the City into its Municipal Code. Two sections from the National Electrical Code Handbook (2002 ed.), which the City uses for guidance, are particularly helpful to understand why the City takes this matter so seriously:

NEC Handbook Commentary for Section 250-94:

For example. . . assume that a current is induced in the power line by a switching surge or a nearby lightning strike, so that a momentary current of 1000 amperes flows over the power line to the power-line ground. ***This amount of current is not unusual under such circumstances. The amount could be, and often is, considerably higher.*** Also assume that the power ground has a resistance of 10 ohms. . . (Emphasis added.)

. . . the current flowing through the equipment connected to electrical system will be raised momentarily to a potential of 10,000 volts (1000 amperes \times 10 ohms). This potential of 10,000 volts would exist between the CATV system and the electrical system and between the grounded conductor within the CATV cable and the grounded surfaces in the walls of the home, such as water pipes (which are connected to the power ground), over which the cable runs. ***This potential could also appear across a person with one hand on the CATV cable and the other hand on a metal surface connected to the power ground (e.g., a radiator or refrigerator).*** (Emphasis added)

Actual voltage is likely to be many times the 10,000 volts calculated, because extremely low (below normal) values were assumed for both resistance to ground and current. Most insulation systems, however, are not designed to withstand even 10,000 volts. Even if the insulation system does withstand a 10,000-volt surge, it is likely to be damaged and breakdown of the insulation system will result in sparking. (Emphasis added.)

. . .

NEC Handbook commentary for Section 820.40(D):

Proper bonding of the CATV system coaxial cable sheath to the electrical power ground is needed to prevent potential fire and shock hazards.

. . .

If an individual is the interface between the two systems and the bonding has not been done in accordance with the Code, the high-voltage surge could result in electric shock. More common, however, is burnout of the television tuner because this part is almost always an interface between the two systems. The tuner is connected to the power system ground through

1. United Cable/Comcast shall correct the grounding so that it will pass the verification inspection as set forth on Exhibit D of Ordinance 3203-C.S. in the shortest possible time.

2. United Cable/Comcast shall pay the following penalties and damages for material breach of the franchise. Such penalties and damages shall accrue on a daily basis beginning on May 14, 2003 (the date of the Notice of Breach) until the grounding corrections are complete and a verification inspection determines that the work is complete as set forth on Exhibit D to Ordinance No. 3203-C.S.

The sum of \$5,000 plus \$1.00 per day per deficiency beginning May 14 through June 30 is \$1,079,192 and is due on July 1. An additional fine of \$1.10 per deficiency shall be accrued on a daily basis during the months of July and August, 2003, and shall be due and paid on the first day of each following month. For each subsequent two month period the fine shall be increased by \$.10 per day per deficiency and shall be due and paid monthly on the first business day each following month. Each non-compliant grounding location is a separate deficiency. Based on the Kramer.Firm report and a total of 78,069 cable locations in the City, as of the date of this Resolution there are 22,379 non-compliant grounding locations.

The City Manager may reduce the penalty amount if United Cable/Comcast can demonstrate, based on statistically accurate (+/-3%) inspections, that the grounding in a designated phase has been completed, as required by Exhibit D, thereby reducing the total number of drops that are out of compliance with grounding requirements.

3. The City Council finds and determines that this is a reasonable and adequate penalty in that it is of sufficient size, in light of the estimated revenue of the cable operator, to constitute a penalty, without being confiscatory; it will provide an incentive to complete the grounding corrections as accurately and expeditiously as possible; the Franchise Documents were explicit and the cable franchisee specifically stipulated that failure to correct the grounding within 24 months from the date of the Cable One to United Cable transfer would constitute a material breach and the material breach is directly related to the public health and safety.

4. The City Manager, in consultation with the City Attorney and special legal counsel, is hereby authorized to notify the surety company of the material breach of the Franchise, to make a demand on the Performance Bond, and/or to call the Letter of Credit, at the time and in the manner that the City Manager and the City Attorney deem appropriate.

5. In addition to and not as an offset against all other fines or charges described above, the Franchisee, United Cable/Comcast shall pay for the City's costs and expenses of enforcement and inspections to assure that the work required to complete the grounding requirements is completed in accordance with Ordinance 3203-C.S. the Franchise Documents and this Resolution. (Ordinance No. 3203-C.S. Section 4, No. 5), including, but not limited to, the costs and expenses for re-inspections and City staff and legal expenses.

6. The City Attorney is authorized and directed to file an injunction action against United Cable/Comcast to require it to remove all facilities and connections that are not properly grounded in order to eliminate the threat to public

safety. The City Council reserves the right to initiate additional legal action at a later date to pursue alternative remedies for the material breach of the franchise.

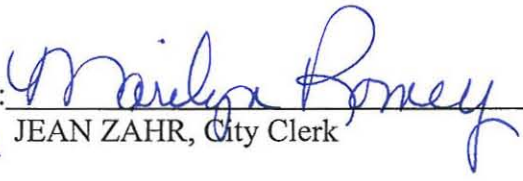
SECTION 4. APPROPRIATION OF CITY FUNDS. Funds of \$100,000 will be transferred from the Cable One settlement account #0100-800-8000-8003 to the cable and technology account #0100-020-0219-8129.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

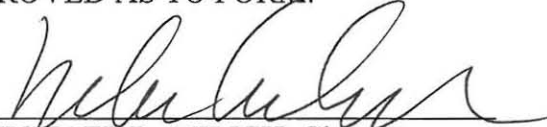
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
for JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 324**

**A RESOLUTION ADOPTING THE BUDGET FOR THE FISCAL YEAR
ENDING JUNE 30, 2004**

WHEREAS, pursuant to the Charter of the City of Modesto, a proposed budget for the 2003-04 Fiscal Year has been submitted to the City Council by the City Manager and the City Council has made such revisions as it has deemed advisable; and

WHEREAS, in accordance with the City Charter, a public hearing has been held upon the adoption of the proposed budget; and

WHEREAS, copies of the proposed budget have been and are available for inspection by the public at the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto has adopted the Operating and Capital Improvement Program Budgets for Fiscal Year 2003-04 with the adjustments as shown in **Attachment 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 26th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By:

MIKE MILICH, City Attorney

City of Modesto
Summary of Budget Changes
FY03-04

June 24, 2003

Program/Position Reduction	Council Recommends
COUNCIL DISCRETIONARY FUNDS	
Discretionary Funding Available to Council	(300,000)
COUNCIL DISCRETIONARY FUNDS TOTAL	(300,000)
PERSONNEL	
1.25 Administrative Office Assistant I	24,849
Administrative Office Assistant III	41,616
Reduce classroom training funds & expenses	10,000
DEPARTMENT TOTAL (10 Personnel)	76,465
INSURANCE FUND	
Transfer of Liability Fund monies to O&M for sidewalk repair ⁽¹⁾	(200,000)
INSURANCE FUND TOTALS	(200,000)
FLEET FUND	
Fleet Fund loan repayment delayed	(212,000)
FLEET FUND TOTALS	(212,000)
CITY CLERK	
State & International conference attendance	2,550
DEPARTMENT TOTAL (20 City Clerk)	2,550
INFORMATION TECHNOLOGY	
Supplemental Request: Requirements Analysis Land Use System	60,000
Supplemental Request: Business Process Review & Doc – Citywide	90,000
DEPARTMENT TOTALS (25 InfoTech)	150,000
COMMUNITY & ECON DEV	
LAFCO	(10,000)
Unfund Senior Business Analyst position	(70,855)
Department totals (35 Community & Economic Development)	(80,855)
PARKS, REC & NEIGHBORHOODS	
Discontinue Roselawn Project	7,000
Addback all CHATM functions	81,198
Recreation Superintendent position	42,222
20% of \$57,330 Administered by Culture Commission (In FY05, budget will be 2% of TOT)	(11,466)
Sister City	(3,160)
Reduce travel costs	(7,500)
Transfer of Park Fund infrastructure replacement revenue to fund O&M services ⁽¹⁾	(100,000)
Transfer of Cell phone tower revenue from Parks to fund O&M services ⁽¹⁾	(50,000)
DEPARTMENT TOTALS (55 Parks, Rec & Neighborhoods)	(41,706)
OPERATIONS & MAINTENANCE	
Street Paving -Transfer work to utility cuts	
Sidewalks-Contract work	200,000
Tree Removal-1 MW II	42,506
Park Restrooms-2 MW II	54,301
Reduce janitorial services for TSP	(29,000)
Supplemental Request: Tree Replanting (Jackman)	30,000
Supplemental Request: Mistletoe Abatement	50,000
Supplemental Request: Aphid Control	30,000
Supplemental Request: Landscape Maintenance Contract (EDC)	100,000
Supplemental Request: Honor Farm Sheriff's Deputy crew	51,760
DEPARTMENT TOTAL: OPERATIONS & MAINTENANCE	617,670
GRAND TOTALS FOR ALL DEPTS	12,124

⁽¹⁾ General Fund Benefit

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-325**

A RESOLUTION APPROVING A FINAL APPLICATION TO THE HOUSING AND URBAN DEVELOPMENT DEPARTMENT (HUD) FOR A \$4.5 MILLION SECTION 108 LOAN GUARANTEE TO FINANCE THE CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK AND THE RENOVATION AND EXPANSION OF MADDUX YOUTH CENTER, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE INITIAL APPLICATION.

WHEREAS, on February 4, 2003, the Modesto City Council adopted Resolution No. 2003-69 authorizing the City Manager, or his designee, to execute the initial application for the Section 108 Loan Guarantee from HUD, and

WHEREAS, City staff recommends approval of the submittal of the final application to the Housing and Urban Development Department (HUD), and

WHEREAS, the City will borrow against a \$4.5 million Section 108 Loan Guarantee, of which \$3.1 million is for the construction of a joint service facility in Marshall Park, which would house a fire station, a police sub-station and a recreation office/ facility, and \$1.4 million is for the renovation and expansion of the Maddux Youth Center, and

WHEREAS, the loan guarantee can be used for any CDBG eligible activity, and these two proposed projects are both located in the low-income census tracts and will benefit low- and moderate-income persons, and

WHEREAS, the City would pay quarterly interest due on the amount borrowed, with the interest rate on the interim financing being adjustable, and based on the London Interbank Offered Rate (LIBOR) plus a mark up of 20 basis points, and

WHEREAS, the maximum term is 20 years, and loans cannot be prepaid during the first ten years of the amortization period; principal is paid once a year and the interest is due on August 1 and February 1, and

WHEREAS, the City of Modesto is proposing a 20-year amortization period on the permanent financing, and

WHEREAS, HUD requires that the City use its future CDBG entitlement as collateral, as well as other collateral which in the City's situation would be Marshall Park, Cesar Chavez Park (the location of the Maddux Youth Center), the buildings and all improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a final application to be submitted to the Federal Housing and Urban Development Department (HUD) for a \$4.5 million Section 108 Loan Guarantee to finance the construction of the Neighborhood Center at Marshall Park and the renovation and expansion of Maddux Youth Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the final 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, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 326**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
UPDATING THE FAIR MARKET VALUE FOR THE PARCELS LOCATED AT
THE SOUTHWEST CORNER OF 10TH STREET AND H STREET AND
AUTHORIZING THE SALE OF SAID PARCELS TO THE MODESTO
REDEVELOPMENT AGENCY.**

WHEREAS, on October 10, 2000, the City Council of the City of Modesto (the “Council”) approved the sale of that certain real property located on the southwest corner of 10th and H Streets in the City of Modesto which parcels are more particularly described as Assessor’s Parcel Numbers: 106-42-01; 106-42-02; 106-42-03; 106-42-04 (A map of said parcels is attached hereto as “**Exhibit A**” and made a part hereof by this reference), and

WHEREAS, the City authorized the sale of said parcels to the Modesto Redevelopment Agency (the “Agency”) which Agency will in turn sell said parcels to Valley Tower, LLC, a California limited liability company, pursuant to an approved Disposition and Development Agreement (the “DDA”) for the purpose of constructing a multi-use project consisting of office space, retail space and a parking garage, and

WHEREAS, since the DDA was approved, the Developer has been working with potential tenants and lenders to ensure a reasonable level of occupancy in the Office Project prior to start of construction and to obtain loan financing for said Office Project, and

WHEREAS, the Developer has been unable to obtain either the level of tenancy or the required project financing, and

WHEREAS, the Agency desires to amend the terms and conditions of said DDA to provide additional time for the Developer to complete said Office Project, and

WHEREAS, considering that three years have elapsed since the original land appraisal, the City desires to ensure that said parcels are sold for the current fair market value which value has been reviewed and updated to equal Six Hundred, Thirty Thousand Dollars (\$630,000).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby authorizes the sale of said parcels to the Modesto Redevelopment Agency for the updated fair market value and total sales price of Six Hundred, Thirty Thousand Dollars (\$630,000).

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that the City Manager is hereby authorized and directed to execute any and all documents related to and/or required by said real estate transaction

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

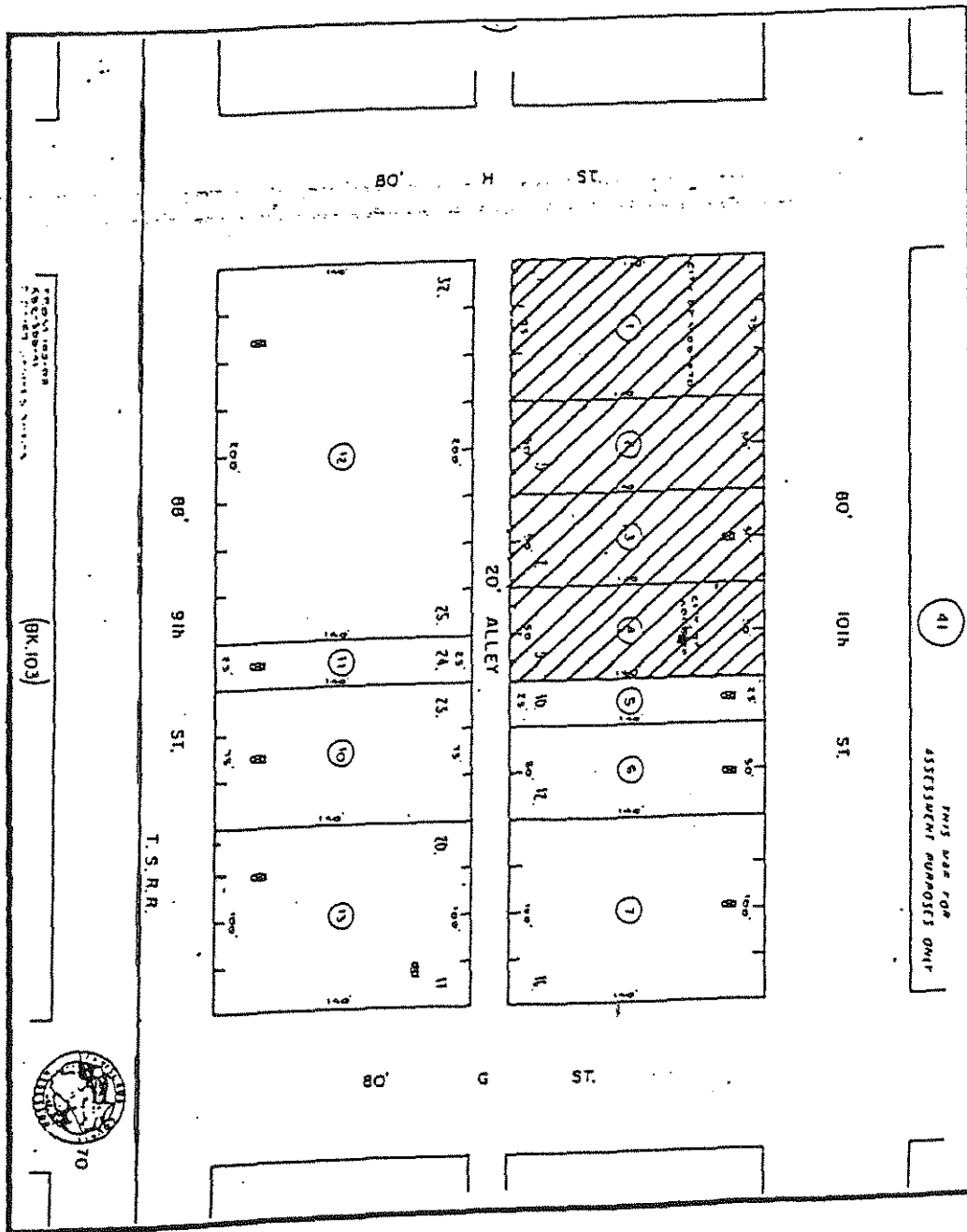
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT A

ATTACHMENT NO. 1

Map of the Site

The City-owned property currently used for public parking, as shown below:



HINCHEY-BRAY - SITE MAP



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-327**

**A RESOLUTION AUTHORIZING THE FILING OF A SECTION 5307
APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR
PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND
AUTHORIZING THE CITY MANAGER 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 Federal Transit Administration 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 \$3,326,214 for FY 2002-2003, and

WHEREAS, the projects in the Section 5307 grant application are in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG May 8, 2002, 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, the City of Modesto City Council conducted a Public Hearing on June 24, 2003, in accordance with FTA regulations, and

WHEREAS, by a report to the Council dated June 9, 2003, from the Engineering and Transportation Department, City staff recommended submitting a grant application for \$3,326,214 in Section 5307 formula FTA funds to partially offset the operational and capital costs of the City's public transit program, a copy of said report is attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute and file an application for Federal Section 5307 assistance 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 Federal Transit Administration.

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 Federal Transit Administration requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute grant agreements with the Federal Transit Administration 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 26th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-328**

**A RESOLUTION AUTHORIZING THE FILING OF AN AMENDMENT 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 AND AUTHORIZING THE CITY
MANAGER 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 Federal Transit Administration required for the projects, and

WHEREAS, the City of Modesto currently has 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 May 27, 2003, the City Council approved Resolution Number 2003-266 amending the Section 5309 grant for \$2,120,260 in additional funds for the new Bus Maintenance Facility, and

WHEREAS, the amendment to the Section 5309 grant approved by Resolution Number 2003-266 cannot be filed at this time, and

WHEREAS, \$445,585 in Section 5309 federal funds for the Bus Maintenance Facility are available and ready for filing of a grant amendment, and

WHEREAS, an amendment to the current Section 5309 grant is required to access these funds, and

WHEREAS, the Bus Maintenance Facility project in the Section 5309 grant amendment is in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG May 8, 2002, 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, the City of Modesto City Council conducted a Public Hearing on June 24, 2003, in accordance with FTA regulations, and

WHEREAS, by a report to the Council dated June 9, 2003, from the Engineering and Transportation Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, a copy of said report is attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute and file an amendment to Federal Section 5309 grant number CA-03-0562 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 Federal Transit Administration.

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 Federal Transit Administration requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute grant agreements with the Federal Transit Administration 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 26th day of June, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

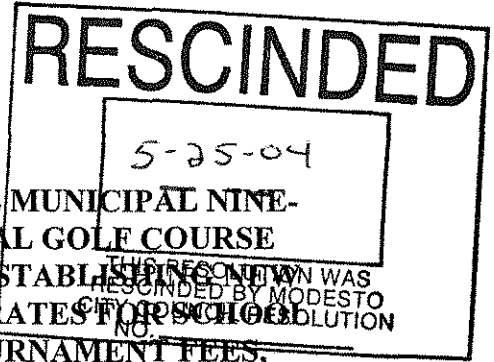
ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-329



A RESOLUTION ESTABLISHING NEW RATES AT THE MUNICIPAL NINE-HOLE GOLF COURSE, THE DRYDEN PARK MUNICIPAL GOLF COURSE AND THE CREEKSIDE MUNICIPAL GOLF COURSE, ESTABLISHING NEW RATES FOR ANNUAL PASSES, ESTABLISHING NEW RATES FOR SCHOOL GOLF TEAM ROUNDS AND ESTABLISHING NEW TOURNAMENT FEES, AND RESCINDING RESOLUTION NO 2002-206A.

2004-283

WHEREAS, on April 23, 2002, the City Council adopted Resolution No. 2002-206A which increased green fees at Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course and Creekside Golf Course, and also approved renewal of the annual pass program; and established new rates for annual passes, and

WHEREAS, City staff is recommending a green fee rate increase at the Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course, an increase in the price of annual passes, an increase in the price of school golf team rounds at City courses, and an increase in the tournament fee schedule, and

WHEREAS, the Finance Committee met on June 2, 2003, and supported City staff's recommendation of increases in green fees and annual passes at all City Municipal courses, and

WHEREAS, by an agenda report to the City Council from the Parks, Recreation and Neighborhoods Department dated June 5, 2003, City staff recommended the changes as outlined in the report, and

WHEREAS, the Golf Courses Committee met on June 11, 2003, and supported City staff's recommendation of a green fee rate increase at the City's Municipal Golf Courses, and an increase in the annual passes, school golf team rounds and tournament fees, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 24, 2003, 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 amended golf fees, and

WHEREAS, the Council of the City of Modesto finds that new fees for play need to be established at the Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course,

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

SECTION 1. RATES. The rates for players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "A" attached hereto.

The policies and rates for tournament players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "B" attached hereto.

SECTION 2. DISCOUNTS.

(a) School Golf Teams. School golf team passes are to be issued only upon presentation by holder of a current high school or college student body card and verification of golf team membership by the school golf coach. Students shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility. Team members with team member passes must

be accompanied by their respective golf coaches and shall play only between the hours of 2:00 p.m. and 5:00 p.m. during the spring golf season. The specific spring school golf team season will be set by the golf professional after receiving the schools' schedules of matches from each school coach. Green fees at the rate of \$3.25 per round shall be implemented for high school and Modesto Junior College golf programs at the Modesto Nine Hole Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course.

- (b) Junior Discounts. Junior discounts are to be given only to persons eighteen (18) years of age and younger any day after 12:00 noon. Juniors shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility.
- (c) Senior/Junior/Disabled Discounts. Senior/Junior/Disabled discounts are to be given only to persons who are sixty-two (62) years of age or older or to those who are on disability retirement. Proof of age or proof of disability retirement must be displayed to obtain a Senior/Retired/Disabled discount. Discounts are good weekdays except for holidays. Members of the five officially recognized golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Thursday, excluding holidays.

- (d) Valu- Play Cards. Golfers can purchase a weekday, 6-round Valu-Play (multiple play) card for Dryden/Creekside or Muni. Valu-Play Discounts are effective for sixty (60) days from the date of purchase except for the months of December, January and February. During this period multiple play cards will be good for the entire three months. Multiple play cards are not refundable or transferable. The multiple play card is not good on weekends or holidays.
- (e) Special Rates. From time to time, the Recreation and Neighborhoods Director or his or her designee may provide up to a fifty percent (50%) discount off of daily greens fees. Such specials shall occur no more than twenty (20) days per month at each golf course.
- (f) Family Tee Program. To promote family play, golfers may play from established “family tees” to be set no more than 175 yards from the greens at Municipal nine-Hole Golf Courses. Rates for play are \$5.00 weekdays and \$6.00 weekends. All members of the foursome or group must use the family tees for this rate to be in effect.
- (g) Play one round, get the second round at half price. This discount is good on the day and at the course on which the original full-fee round is played. The fee for the second round shall be one-half of the green fee in effect at the time the second round is played.

SECTION 3. COMPLIMENTARY TICKETS. Complimentary tickets without fee may be issued by or under the direction of the Golf Course Professional to visiting

professionals or others, for services rendered to the golf course. Free play must be approved by the Parks, Recreation and Neighborhoods Director or designee.

SECTION 4. CHILDREN. Children under the age of eleven (11) will not be permitted to play golf unless accompanied by an adult playing golf.

SECTION 5. POLICY. In order for fees to be consistent and competitive with other courses in the valley, the Play Day Policy for Play at the City's Municipal Golf Courses by Non-Affiliated Groups shall continue to be implemented as set forth on Exhibit "C" attached hereto.

SECTION 6. HOLIDAYS. "Holidays", as used herein, shall mean New Year's Day (January 1st), Martin Luther King's Birthday (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4th), Labor Day (the first Monday in September), Veterans Day (November 11th), Thanksgiving Day (the fourth Thursday in November) and the day after Thanksgiving. When a holiday falls on Sunday, the following Monday shall be observed as a holiday. When a holiday falls on Saturday, the preceding Friday shall be observed as a holiday.

SECTION 7. SIGNS. The Golf Course Professional is authorized and directed to post a sign in a conspicuous place informing all golfers of the established greens fees.

SECTION 8. OFFICIALLY RECOGNIZED AFFILIATED GOLF CLUBS. Golf Clubs officially recognized under the terms of this resolution are: Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.

SECTION 9. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2003.

SECTION 10. REPEALS. Resolution No. 2002-206A is hereby rescinded effective June 30,2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keaing, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

**CITY OF MODESTO GOLF COURSES
GREEN FEE SCHEDULE
EFFECTIVE JULY 1, 2003**

DRYDEN PARK MUNICIPAL GOLF COURSE

Weekdays, 9-holes	\$ 13.50
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 11.50
Weekdays, 18-holes	\$ 19.00
Weekdays, 18-holes (seniors/juniors/disabled)	\$ 15.50
Weekdays, 18-holes (juniors, after noon)	\$11.50
Weekdays Mid-day, 18-holes	\$ 15.00
Weekdays Super-Twilight, 18-holes	\$ 9.00
Weekdays afternoon League Play	\$ 13.50
Weekends/Holidays, 9-holes	\$ 15.50
Weekends/Holidays, 18-holes	\$ 25.00
Weekends/Holidays, 18-holes (juniors, after noon)	\$ 14.00
Weekends/Holidays Mid-day, 18-holes	\$ 18.00
Weekends/Holidays Super-Twilight, 18-holes	\$ 12.00
6-play Valu-Play booklet	\$ 96.00
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 81.00

CREEKSIDE MUNICIPAL GOLF COURSE

Weekdays, 9-holes	\$ 15.00
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 12.50
Weekdays, 18-holes	\$ 21.00
Weekdays, 18-holes (seniors/juniors/disabled)	\$ 17.00
Weekdays, 18-holes (juniors, after noon)	\$ 12.50
Weekdays Mid-day, 18-holes	\$ 16.00
Weekdays Super-Twilight, 18-holes	\$ 10.00
Weekdays afternoon League Play	\$ 14.50
Weekends/Holidays, 9-holes	\$ 17.50
Weekends/Holidays, 18-holes	\$ 28.00
Weekends/Holidays, 18-holes (juniors, after noon)	\$ 16.00
Weekends/Holidays Mid-day, 18-holes	\$ 20.00
Weekends/Holidays Super-Twilight, 18-holes	\$ 14.00
6-play Valu-Play booklet	\$ 96.00
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 81.00

MODESTO NINE HOLE MUNICIPAL GOLF COURSE (MUNI)

Weekdays, 9-holes	\$ 12.00
Weekdays, 9-holes (seniors/juniors/disabled)	\$ 10.00
Weekdays, 9-holes (juniors, after noon)	\$ 7.50
Weekdays Mid-day, 9-holes	\$ 10.00
Weekdays Super-Twilight, 9-holes	\$ 8.00
Weekdays afternoon League Play	\$ 9.00
Weekends/Holidays, 9-holes	\$ 14.00
Weekends/Holidays, 9-holes (juniors, after noon)	\$ 8.50
Weekends/Holidays Mid-day, 9-holes	\$ 11.00
Weekends/Holidays Super-Twilight, 9-holes	\$ 9.00
6-play Valu-Play booklet	\$ 48.00
6-play Valu-Play booklet (seniors/juniors/disabled)	\$ 40.50
Weekdays, 9-holes, Family Tees	\$5.00
Weekends, 9-holes, Family Tees	\$6.00

MUNICIPAL NINE-HOLE GOLF COURSE, DRYDEN PARK MUNICIPAL GOLF COURSE AND CREEKSIDE MUNICIPAL GOLF COURSE

*Annual Club Membership, Initial Membership	\$150.00
*Annual Club Membership, Every Day	\$890.00
*Annual Club Membership, Every Day, Jr./Sr.	\$780.00
*Annual Club Membership, Every Day, Family	\$1,330.00
*Annual Club Membership, Every Day, Family, Jr./Sr.	\$1,165.00
*Annual Club Membership, Week Day	\$725.00
*Annual Club Membership, Week Day, Jr./Sr.	\$610.00
*Annual Club Membership, Week Day, Family	\$1,080.00
*Annual Club Membership, Week Day, Family, Jr./Sr.	\$920.00

*At Dryden Park Municipal Golf Course and Creekside Municipal Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 1:00 p.m. during Daylight Savings Time and 12:00 Noon during Standard Time on Saturdays, Sundays, and Holidays. At Municipal Nine-Hole Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 10:00 a.m. year-round on Saturdays, Sundays, and Holidays.

TOURNAMENT FEE SCHEDULE AND POLICY
EFFECTIVE JULY 1, 2003

	Regular Tee <u>Time Style</u>	FEE PER PLAYER	
		Full Shotgun Tee Time Style <u>Excluding cart</u>	Modified Shotgun Tee Time Style <u>Excluding cart</u>
<u>CREEKSIDE</u>			
Weekday	\$31.00	\$39.00	\$39.00
Weekends	\$38.00	\$47.00	N/A
<u>DRYDEN</u>			
Weekday	\$29.00	\$37.00	\$37.00
Weekends	\$35.00	\$44.00	N/A
<u>MUNI</u>			
Weekday	\$22.00	\$24.00	N/A
Weekend	\$24.00	\$26.00	N/A

In addition, a non-refundable deposit of \$50.00 per tournament is required.

Regular tee time style tournaments require a minimum of 28 players. Per player fees include: green fees (\$21.00 weekdays/\$28.00 weekends at Creekside, \$19.00 weekdays/\$25.00 weekends at Dryden and \$12.00 weekdays/\$14.00 weekends at Muni); and Pro Shop merchandise credit (\$5.00 at Creekside/Dryden/Muni); and golf course restaurant credit (\$5.00 at Creekside/Dryden/Muni).

Full shotgun tee time style tournaments require a minimum of 120 players at Creekside/Dryden and a minimum of 72 players at Muni. Per player fees include: green fees (\$25.00 weekdays/\$33.00 weekends at Creekside, \$23.00 weekdays/\$30.00 weekends at Dryden and \$14.00 weekdays/\$16.00 weekends at Muni); Pro Shop merchandise credit (\$7.00 at Creekside/Dryden and \$5.00 at Muni); and golf course restaurant credit (\$7.00 at Creekside/Dryden and \$5.00 at Muni). Cart rental is required for shotgun style tournaments.

Modified shotgun tee time style tournaments require a minimum of 72 players at Creekside/Dryden. Per player fees include: green fees (\$25.00 weekdays at Creekside; \$23.00 weekdays at Dryden); Pro Shop merchandise credit (\$7.00 at Creekside/Dryden); and golf course restaurant credit (\$7.00 at Creekside/Dryden). Cart rental is required for modified shotgun style tournaments. Modified shotgun style tournaments are not available at Muni.

Members of the five officially recognized affiliated golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Friday, excluding holidays.

PLAY DAY POLICY
FOR PLAY AT THE CITY'S
MUNICIPAL GOLF COURSES
BY NON-AFFILIATED GROUPS

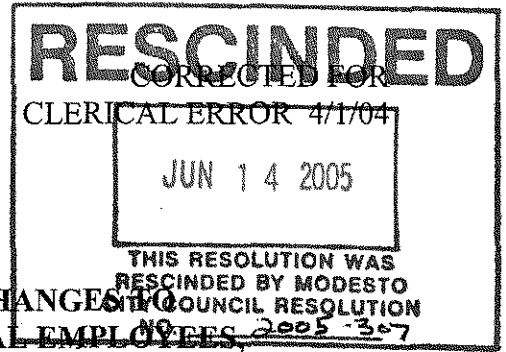
The following policy is hereby established for Non-Affiliated Groups to encourage their use of the City's municipal golf courses:

Criteria for these groups are:

1. They are a group with an identification or organizational structure;
2. They commit to use the City's golf course(s) on a regular basis (weekly, bi-weekly, monthly, etc.);
3. They have a minimum of twenty-four (24) players;
4. Regular tee-time style starting will be used (no shotgun style starting will be allowed);
5. Their events do not promote a formal competition or championship; and
6. Play days will be restricted to Monday through Wednesday after 9:00 a.m.

In recognition of their contribution to the golf program, no mandatory pro shop or restaurant fees will be assessed. Tee time reservations, in advance of public reservations, will be allowed.

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-330



A RESOLUTION GRANTING SALARY AND BENEFIT CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JULY 1, 2003, AND RESCINDING RESOLUTION NOS. 2002-307 AND 2003-81A AND AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-331 EFFECTIVE JUNE 30, 2003.

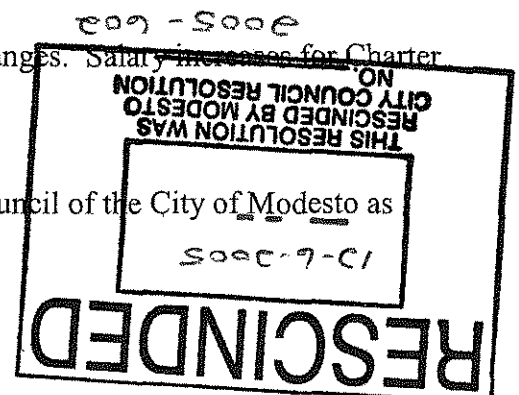
WHEREAS, by Resolution No. 95-530 which became effective on November 7, 1995, the City Council amended the salary schedules for unrepresented Management and Confidential employees to incorporate a 9-Step Salary Step Plan, and

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 desires to approve a three and one half (3.5%) percent increase in salary ranges for unrepresented Management and Confidential employees, including Executives and Charter Officers, effective July 1, 2003 and a three and three fourths (3.75%) percent increase in salary ranges effective June 29, 2004, and

WHEREAS, the Council of the City of Modesto desires to approve a three and one-half (3.5%) percent across-the-board salary increase for unrepresented Management and Confidential employees, effective July 1, 2003 and a three and three-fourths (3.75%) per cent across-the-board increase effective June 29, 2004. Salary increases for Executives shall be at the discretion of the City Manager, within approved salary ranges. Salary increases for Charter Officers shall require separate action by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as 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 amend Resolution No. 2003-331 and supercede Resolution No. 2003-81A effective July 1, 2003, to provide for a three and one half (3.5%) percent across-the-board salary adjustment for unrepresented Management and Confidential employees, and an additional three and three fourths (3.75%) across-the-board increase effective June 29, 2004. For Executive Management and Charter Officers, salary ranges shall be increased by three and one half (3.5%) percent effective July 1, 2003 and by three and three fourths (3.75%) percent effective June 29, 2004.

1. Exhibit "A" entitled "City Of Modesto Class Range Table, Unrepresented Management And Confidential Non-Sworn Classes, Effective July 1, 2003."
2. Exhibit "B" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04 Effective July 1, 2003 - Schedule H Management/Confidential – Non-Sworn Unrepresented."
3. Exhibit "C" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 04/05 Effective June 29, 2004 - Schedule H Management/Confidential – Non-Sworn Unrepresented."
4. Exhibit "D" entitled "City Of Modesto Class Range Table, Fire Management Classes, Effective July 1, 2003."
5. Exhibit "E" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04, Effective July 1, 2003 - Schedule E Management/Confidential - Fire- 80 hours - Division Chief."
6. Exhibit "F" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 04/05, Effective June 29, 2004 - Schedule E Management/Confidential - Fire- 80 hours - Division Chief."
7. Exhibit "G" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04, Effective July 1, 2003 - Schedule X, Fire Management - 80 Hrs. - Battalion Chief."
8. Exhibit "H" entitled "City Of Modesto Schedule Of Salary Ranges In

City Service For FY 04/05, Effective June 29, 2004 - Schedule X, Fire Management - 80 Hrs. - Battalion Chief."

9. Exhibit "I" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04, Effective July 1, 2003 - Schedule Y, Fire Management - 112 Hrs. - Battalion Chief."
10. Exhibit "J" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 04/05, Effective June 29, 2004 - Schedule Y, Fire Management - 112 Hrs. - Battalion Chief."
11. Exhibit "K" entitled "City Of Modesto Class Range Table, Police Management Classes (Unrepresented), Effective July 1, 2003."
12. Exhibit "L" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04, Effective July 1, 2003 - Schedule G Management/Confidential - Police - Unrepresented."
13. Exhibit "M" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 04/05, Effective June 29, 2004 - Schedule G Management/Confidential - Police - Unrepresented."
14. Exhibit "N" entitled "City Of Modesto Class Range Table, Executive Management, Effective July 1, 2003," which includes Charter Officers.
15. Exhibit "O" entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 03/04, Effective July 1, 2003 - Executive Management."
16. Exhibit "P" entitled "City of Modesto Schedule of Salary Ranges in City Service For FY 04/05, Effective June 29, 2004 – Executive Management."

SECTION 2. CHARTER OFFICERS. Effective July 1, 2003, the salaries for the positions of the Charter Officers shall be as follows:

<u>TITLE</u>	<u>HOURLY</u>	<u>BI-WEEKLY</u>	<u>MONTHLY</u>
City Manager	\$75.6302	\$6,050.42	\$13,159.66
City Attorney	\$66.9621	\$5,356.97	\$11,651.40
City Clerk	\$37.9928	\$3,039.42	\$ 6,610.74

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. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for non-sworn employees are hereby increased, to the

following amounts:

<u>Effective Date</u>	<u>Contribution</u>	
	<u>Family</u>	<u>Single</u>
August 1, 2003	\$571.76 mo.	\$347.98 mo.
August 1, 2004	\$676.76 mo.	\$377.98 mo.

The City's contribution to health, dental and vision benefits for

Unrepresented Sworn Fire Management and Unrepresented Sworn Police Management employees are as follows, pursuant to Resolution 2003-81A adopted on February 11, 2003:

<u>Effective Date</u>	<u>Contribution</u>	
	<u>Family</u>	<u>Single</u>
March 25, 2003	\$556.76 mo.	\$317.98 mo.
August 1, 2003	\$656.76 mo.	\$347.98 mo.
August 1, 2004	\$731.76 mo.	\$377.98 mo.

SECTION 9. 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 shall replace the current annual Haz Mat Stipend.

SECTION 10. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree 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 11. 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 12. 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.

SECTION 13. DEFERRED COMPENSATION PLAN FOR EXECUTIVE AND

CHARTER OFFICERS. The City shall establish a 401(a) Deferred Compensation Plan for Fire Battalion Chiefs, Fire Division Chiefs, Police Captains, Executives and Charter Officers, excluding the City Manager for whom a plan has already been established. The 401(a) Deferred Compensation Plan shall be established effective January 1, 2003 and provide for a 1% City-paid contribution for Fire Battalion Chiefs, Fire Division Chiefs and Police Captains, a 2% City-paid contribution for Executives and a 4% City-paid contribution for Charter Officers, in addition to a mandatory employee contribution.

SECTION 14. MANAGEMENT AND CONFIDENTIAL LEAVE. Management

Leave for Management employees shall be increased to 80 hours annually, effective January 1, 2002. Leave for Confidential employees shall be increased to 20 hours annually, effective January 1, 2002. The number of hours available for cashout shall be 40 hours annually for Management employees, 18 hours annually for Confidential employees, and 60 hours annually for Executives.

SECTION 15. UNIFORM ALLOWANCES. Uniform allowances for unrepresented

Management and Confidential employees who are required to wear a uniform, are as follows:

<u>Positions</u>	<u>Effective Date</u>	<u>Increase</u>	<u>Allowance</u>
Sworn Police	January 1, 2003	\$3.33 mo.	\$91.66
Fire Management	January 1, 2003	\$2.08 mo.	\$62.50
	January 1, 2004	\$2.08 mo.	\$64.58

SECTION 16. REPEAL. Resolution No. 2002-307 and Resolution No. 2003-81A are hereby rescinded, effective June 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, O'Bryant
 NOES: Councilmembers: Conrad, Keating, Mayor Sabatino
 ABSENT: Councilmembers: None

ATTEST: Jean Zahr
 JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective July 1, 2003

RANGE TITLE

2419

2420 Executive Secretary – Personnel and City Manager’s Offices

2421 - 2424

2425 Executive Assistant
Paralegal

2426 - 2427

2428 Accountant II- in City Clerk’s office

2429 - 2430

2431 Equal Opportunity Officer

2432 - 2436

2437 Deputy City Attorney I

2438 - 2440

2441 Assistant Personnel Director
Deputy City Attorney II

2442

2443 Senior Deputy City Attorney I

2444 Risk Manager

2445 -2446

2447 Assistant to City Manager

2448

Exhibit "A"

RANGE	TITLE
-------	-------

2449 Senior Deputy City Attorney II

2450 - 2451

2452 Deputy Director – Cultural and Enterprise Services
Deputy Director – Engineering & Transportation
Deputy Director of Finance
Deputy Director – Operations and Maintenance
Deputy Director – Recreation and Neighborhoods

2453 - 2454

2455 Assistant City Attorney

Exhibit "A"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
EFFECTIVE July 1, 2003

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED
HOURLY

3.5

Range	1	2	3	4	5	6	7	8	9
2419	17.9075	18.3552	18.8141	19.2845	19.7666	20.2608	20.7673	21.2865	21.8187
2420	18.3552	18.8141	19.2845	19.7666	20.2608	20.7673	21.2865	21.8187	22.3642
2421	18.8141	19.2845	19.7666	20.2608	20.7673	21.2865	21.8187	22.3642	22.9233
2422	19.2845	19.7666	20.2608	20.7673	21.2865	21.8187	22.3642	22.9233	23.4964
2423	19.7666	20.2608	20.7673	21.2865	21.8187	22.3642	22.9233	23.4964	24.0838
2424	20.2608	20.7673	21.2865	21.8187	22.3642	22.9233	23.4964	24.0838	24.6859
2425	20.7673	21.2865	21.8187	22.3642	22.9233	23.4964	24.0838	24.6859	25.3030
2426	21.2865	21.8187	22.3642	22.9233	23.4964	24.0838	24.6859	25.3030	25.9356
2427	21.8187	22.3642	22.9233	23.4964	24.0838	24.6859	25.3030	25.9356	26.5840
2428	22.3642	22.9233	23.4964	24.0838	24.6859	25.3030	25.9356	26.5840	27.2486
2429	22.9233	23.4964	24.0838	24.6859	25.3030	25.9356	26.5840	27.2486	27.9298
2430	23.4964	24.0838	24.6859	25.3030	25.9356	26.5840	27.2486	27.9298	28.6280
2431	24.0838	24.6859	25.3030	25.9356	26.5840	27.2486	27.9298	28.6280	29.3437
2432	24.6859	25.3030	25.9356	26.5840	27.2486	27.9298	28.6280	29.3437	30.0773

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2419	1,432.60	1,468.42	1,505.13	1,542.76	1,581.33	1,620.86	1,661.38	1,702.92	1,745.50
2420	1,468.42	1,505.13	1,542.76	1,581.33	1,620.86	1,661.38	1,702.92	1,745.50	1,789.14
2421	1,505.13	1,542.76	1,581.33	1,620.86	1,661.38	1,702.92	1,745.50	1,789.14	1,833.86
2422	1,542.76	1,581.33	1,620.86	1,661.38	1,702.92	1,745.50	1,789.14	1,833.86	1,879.71
2423	1,581.33	1,620.86	1,661.38	1,702.92	1,745.50	1,789.14	1,833.86	1,879.71	1,926.70
2424	1,620.86	1,661.38	1,702.92	1,745.50	1,789.14	1,833.86	1,879.71	1,926.70	1,974.87
2425	1,661.38	1,702.92	1,745.50	1,789.14	1,833.86	1,879.71	1,926.70	1,974.87	2,024.24
2426	1,702.92	1,745.50	1,789.14	1,833.86	1,879.71	1,926.70	1,974.87	2,024.24	2,074.85
2427	1,745.50	1,789.14	1,833.86	1,879.71	1,926.70	1,974.87	2,024.24	2,074.85	2,126.72
2428	1,789.14	1,833.86	1,879.71	1,926.70	1,974.87	2,024.24	2,074.85	2,126.72	2,179.89
2429	1,833.86	1,879.71	1,926.70	1,974.87	2,024.24	2,074.85	2,126.72	2,179.89	2,234.38
2430	1,879.71	1,926.70	1,974.87	2,024.24	2,074.85	2,126.72	2,179.89	2,234.38	2,290.24
2431	1,926.70	1,974.87	2,024.24	2,074.85	2,126.72	2,179.89	2,234.38	2,290.24	2,347.50
2432	1,974.87	2,024.24	2,074.85	2,126.72	2,179.89	2,234.38	2,290.24	2,347.50	2,406.18

MONTHLY

	1	2	3	4	5	6	7	8	9
2419	3,115.91	3,193.81	3,273.66	3,355.50	3,439.39	3,525.37	3,613.50	3,703.85	3,796.46
2420	3,193.81	3,273.66	3,355.50	3,439.39	3,525.37	3,613.50	3,703.85	3,796.46	3,891.38
2421	3,273.66	3,355.50	3,439.39	3,525.37	3,613.50	3,703.85	3,796.46	3,891.38	3,988.65
2422	3,355.50	3,439.39	3,525.37	3,613.50	3,703.85	3,796.46	3,891.38	3,988.65	4,088.37
2423	3,439.39	3,525.37	3,613.50	3,703.85	3,796.46	3,891.38	3,988.65	4,088.37	4,190.57
2424	3,525.37	3,613.50	3,703.85	3,796.46	3,891.38	3,988.65	4,088.37	4,190.57	4,295.34
2425	3,613.50	3,703.85	3,796.46	3,891.38	3,988.65	4,088.37	4,190.57	4,295.34	4,402.72
2426	3,703.85	3,796.46	3,891.38	3,988.65	4,088.37	4,190.57	4,295.34	4,402.72	4,512.80
2427	3,796.46	3,891.38	3,988.65	4,088.37	4,190.57	4,295.34	4,402.72	4,512.80	4,625.62
2428	3,891.38	3,988.65	4,088.37	4,190.57	4,295.34	4,402.72	4,512.80	4,625.62	4,741.26
2429	3,988.65	4,088.37	4,190.57	4,295.34	4,402.72	4,512.80	4,625.62	4,741.26	4,859.78
2430	4,088.37	4,190.57	4,295.34	4,402.72	4,512.80	4,625.62	4,741.26	4,859.78	4,981.27
2431	4,190.57	4,295.34	4,402.72	4,512.80	4,625.62	4,741.26	4,859.78	4,981.27	5,105.81
2432	4,295.34	4,402.72	4,512.80	4,625.62	4,741.26	4,859.78	4,981.27	5,105.81	5,233.44

EXHIBIT B

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
EFFECTIVE July 1, 2003

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

DURLY

3.50%

Range	1	2	3	4	5	6	7	8	9
2433	25.3030	25.9356	26.5840	27.2486	27.9298	28.6280	29.3437	30.0773	30.8292
2434	25.9356	26.5840	27.2486	27.9298	28.6280	29.3437	30.0773	30.8292	31.5999
2435	26.5840	27.2486	27.9298	28.6280	29.3437	30.0773	30.8292	31.5999	32.3899
2436	27.2486	27.9298	28.6280	29.3437	30.0773	30.8292	31.5999	32.3899	33.1996
2437	27.9298	28.6280	29.3437	30.0773	30.8292	31.5999	32.3899	33.1996	34.0296
2438	28.6280	29.3437	30.0773	30.8292	31.5999	32.3899	33.1996	34.0296	34.8803
2439	29.3437	30.0773	30.8292	31.5999	32.3899	33.1996	34.0296	34.8803	35.7523
2440	30.0773	30.8292	31.5999	32.3899	33.1996	34.0296	34.8803	35.7523	36.6461
2441	30.8292	31.5999	32.3899	33.1996	34.0296	34.8803	35.7523	36.6461	37.5623
2442	31.5999	32.3899	33.1996	34.0296	34.8803	35.7523	36.6461	37.5623	38.5014
2443	32.3899	33.1996	34.0296	34.8803	35.7523	36.6461	37.5623	38.5014	39.4639
2444	33.1996	34.0296	34.8803	35.7523	36.6461	37.5623	38.5014	39.4639	40.4505
2445	34.0296	34.8803	35.7523	36.6461	37.5623	38.5014	39.4639	40.4505	41.4618
2446	34.8803	35.7523	36.6461	37.5623	38.5014	39.4639	40.4505	41.4618	42.4983

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2433	2,024.24	2,074.85	2,126.72	2,179.89	2,234.38	2,290.24	2,347.50	2,406.18	2,466.34
2434	2,074.85	2,126.72	2,179.89	2,234.38	2,290.24	2,347.50	2,406.18	2,466.34	2,527.99
2435	2,126.72	2,179.89	2,234.38	2,290.24	2,347.50	2,406.18	2,466.34	2,527.99	2,591.19
2436	2,179.89	2,234.38	2,290.24	2,347.50	2,406.18	2,466.34	2,527.99	2,591.19	2,655.97
2437	2,234.38	2,290.24	2,347.50	2,406.18	2,466.34	2,527.99	2,591.19	2,655.97	2,722.37
2438	2,290.24	2,347.50	2,406.18	2,466.34	2,527.99	2,591.19	2,655.97	2,722.37	2,790.42
2439	2,347.50	2,406.18	2,466.34	2,527.99	2,591.19	2,655.97	2,722.37	2,790.42	2,860.18
2440	2,406.18	2,466.34	2,527.99	2,591.19	2,655.97	2,722.37	2,790.42	2,860.18	2,931.69
2441	2,466.34	2,527.99	2,591.19	2,655.97	2,722.37	2,790.42	2,860.18	2,931.69	3,004.98
2442	2,527.99	2,591.19	2,655.97	2,722.37	2,790.42	2,860.18	2,931.69	3,004.98	3,080.11
2443	2,591.19	2,655.97	2,722.37	2,790.42	2,860.18	2,931.69	3,004.98	3,080.11	3,157.11
2444	2,655.97	2,722.37	2,790.42	2,860.18	2,931.69	3,004.98	3,080.11	3,157.11	3,236.04
2445	2,722.37	2,790.42	2,860.18	2,931.69	3,004.98	3,080.11	3,157.11	3,236.04	3,316.94
2446	2,790.42	2,860.18	2,931.69	3,004.98	3,080.11	3,157.11	3,236.04	3,316.94	3,399.86

MONTHLY

	1	2	3	4	5	6	7	8	9
2433	4,402.72	4,512.80	4,625.62	4,741.26	4,859.78	4,981.27	5,105.81	5,233.44	5,364.29
2434	4,512.80	4,625.62	4,741.26	4,859.78	4,981.27	5,105.81	5,233.44	5,364.29	5,498.38
2435	4,625.62	4,741.26	4,859.78	4,981.27	5,105.81	5,233.44	5,364.29	5,498.38	5,635.84
2436	4,741.26	4,859.78	4,981.27	5,105.81	5,233.44	5,364.29	5,498.38	5,635.84	5,776.73
2437	4,859.78	4,981.27	5,105.81	5,233.44	5,364.29	5,498.38	5,635.84	5,776.73	5,921.15
2438	4,981.27	5,105.81	5,233.44	5,364.29	5,498.38	5,635.84	5,776.73	5,921.15	6,069.16
2439	5,105.81	5,233.44	5,364.29	5,498.38	5,635.84	5,776.73	5,921.15	6,069.16	6,220.89
2440	5,233.44	5,364.29	5,498.38	5,635.84	5,776.73	5,921.15	6,069.16	6,220.89	6,376.43
2441	5,364.29	5,498.38	5,635.84	5,776.73	5,921.15	6,069.16	6,220.89	6,376.43	6,535.83
2442	5,498.38	5,635.84	5,776.73	5,921.15	6,069.16	6,220.89	6,376.43	6,535.83	6,699.24
2443	5,635.84	5,776.73	5,921.15	6,069.16	6,220.89	6,376.43	6,535.83	6,699.24	6,866.71
2444	5,776.73	5,921.15	6,069.16	6,220.89	6,376.43	6,535.83	6,699.24	6,866.71	7,038.39
2445	5,921.15	6,069.16	6,220.89	6,376.43	6,535.83	6,699.24	6,866.71	7,038.39	7,214.34
2446	6,069.16	6,220.89	6,376.43	6,535.83	6,699.24	6,866.71	7,038.39	7,214.34	7,394.70

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
EFFECTIVE July 1, 2003

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED
HOURLY

Range	1	2	3	4	5	6	7	8	9
2447	35.7523	36.6461	37.5623	38.5014	39.4639	40.4505	41.4618	42.4983	43.5608
2448	36.6461	37.5623	38.5014	39.4639	40.4505	41.4618	42.4983	43.5608	44.6498
2449	37.5623	38.5014	39.4639	40.4505	41.4618	42.4983	43.5608	44.6498	45.7660
2450	38.5014	39.4639	40.4505	41.4618	42.4983	43.5608	44.6498	45.7660	46.9102
2451	39.4639	40.4505	41.4618	42.4983	43.5608	44.6498	45.7660	46.9102	48.0830
2452	40.4505	41.4618	42.4983	43.5608	44.6498	45.7660	46.9102	48.0830	49.2851
2453	41.4618	42.4983	43.5608	44.6498	45.7660	46.9102	48.0830	49.2851	50.5172
2454	42.4983	43.5608	44.6498	45.7660	46.9102	48.0830	49.2851	50.5172	51.7801
2455	43.5608	44.6498	45.7660	46.9102	48.0830	49.2851	50.5172	51.7801	53.0746
2456	44.6498	45.7660	46.9102	48.0830	49.2851	50.5172	51.7801	53.0746	54.4015
2457	45.7660	46.9102	48.0830	49.2851	50.5172	51.7801	53.0746	54.4015	55.7615
2458	46.9102	48.0830	49.2851	50.5172	51.7801	53.0746	54.4015	55.7615	57.1555
2459	48.0830	49.2851	50.5172	51.7801	53.0746	54.4015	55.7615	57.1555	58.5844
2460	49.2851	50.5172	51.7801	53.0746	54.4015	55.7615	57.1555	58.5844	60.0490

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2447	2,860.18	2,931.69	3,004.98	3,080.11	3,157.11	3,236.04	3,316.94	3,399.86	3,484.86
2448	2,931.69	3,004.98	3,080.11	3,157.11	3,236.04	3,316.94	3,399.86	3,484.86	3,571.98
2449	3,004.98	3,080.11	3,157.11	3,236.04	3,316.94	3,399.86	3,484.86	3,571.98	3,661.28
2450	3,080.11	3,157.11	3,236.04	3,316.94	3,399.86	3,484.86	3,571.98	3,661.28	3,752.82
2451	3,157.11	3,236.04	3,316.94	3,399.86	3,484.86	3,571.98	3,661.28	3,752.82	3,846.64
2452	3,236.04	3,316.94	3,399.86	3,484.86	3,571.98	3,661.28	3,752.82	3,846.64	3,942.81
2453	3,316.94	3,399.86	3,484.86	3,571.98	3,661.28	3,752.82	3,846.64	3,942.81	4,041.38
2454	3,399.86	3,484.86	3,571.98	3,661.28	3,752.82	3,846.64	3,942.81	4,041.38	4,142.41
2455	3,484.86	3,571.98	3,661.28	3,752.82	3,846.64	3,942.81	4,041.38	4,142.41	4,245.97
2456	3,571.98	3,661.28	3,752.82	3,846.64	3,942.81	4,041.38	4,142.41	4,245.97	4,352.12
2457	3,661.28	3,752.82	3,846.64	3,942.81	4,041.38	4,142.41	4,245.97	4,352.12	4,460.92
2458	3,752.82	3,846.64	3,942.81	4,041.38	4,142.41	4,245.97	4,352.12	4,460.92	4,572.44
2459	3,846.64	3,942.81	4,041.38	4,142.41	4,245.97	4,352.12	4,460.92	4,572.44	4,686.75
2460	3,942.81	4,041.38	4,142.41	4,245.97	4,352.12	4,460.92	4,572.44	4,686.75	4,803.92

MONTHLY

	1	2	3	4	5	6	7	8	9
2447	6,220.89	6,376.43	6,535.83	6,699.24	6,866.71	7,038.39	7,214.34	7,394.70	7,579.57
2448	6,376.43	6,535.83	6,699.24	6,866.71	7,038.39	7,214.34	7,394.70	7,579.57	7,769.06
2449	6,535.83	6,699.24	6,866.71	7,038.39	7,214.34	7,394.70	7,579.57	7,769.06	7,963.28
2450	6,699.24	6,866.71	7,038.39	7,214.34	7,394.70	7,579.57	7,769.06	7,963.28	8,162.38
2451	6,866.71	7,038.39	7,214.34	7,394.70	7,579.57	7,769.06	7,963.28	8,162.38	8,366.44
2452	7,038.39	7,214.34	7,394.70	7,579.57	7,769.06	7,963.28	8,162.38	8,366.44	8,575.61
2453	7,214.34	7,394.70	7,579.57	7,769.06	7,963.28	8,162.38	8,366.44	8,575.61	8,790.00
2454	7,394.70	7,579.57	7,769.06	7,963.28	8,162.38	8,366.44	8,575.61	8,790.00	9,009.74
2455	7,579.57	7,769.06	7,963.28	8,162.38	8,366.44	8,575.61	8,790.00	9,009.74	9,234.98
2456	7,769.06	7,963.28	8,162.38	8,366.44	8,575.61	8,790.00	9,009.74	9,234.98	9,465.86
2457	7,963.28	8,162.38	8,366.44	8,575.61	8,790.00	9,009.74	9,234.98	9,465.86	9,702.50
2458	8,162.38	8,366.44	8,575.61	8,790.00	9,009.74	9,234.98	9,465.86	9,702.50	9,945.06
2459	8,366.44	8,575.61	8,790.00	9,009.74	9,234.98	9,465.86	9,702.50	9,945.06	10,193.68
2460	8,575.61	8,790.00	9,009.74	9,234.98	9,465.86	9,702.50	9,945.06	10,193.68	10,448.53

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
EFFECTIVE June 29, 2004

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED
HOURLY

3.75%

Range	1	2	3	4	5	6	7	8	9
2419	18.5790	19.0435	19.5196	20.0076	20.5078	21.0205	21.5460	22.0847	22.6368
2420	19.0435	19.5196	20.0076	20.5078	21.0205	21.5460	22.0847	22.6368	23.2027
2421	19.5196	20.0076	20.5078	21.0205	21.5460	22.0847	22.6368	23.2027	23.7828
2422	20.0076	20.5078	21.0205	21.5460	22.0847	22.6368	23.2027	23.7828	24.3774
2423	20.5078	21.0205	21.5460	22.0847	22.6368	23.2027	23.7828	24.3774	24.9868
2424	21.0205	21.5460	22.0847	22.6368	23.2027	23.7828	24.3774	24.9868	25.6115
2425	21.5460	22.0847	22.6368	23.2027	23.7828	24.3774	24.9868	25.6115	26.2518
2426	22.0847	22.6368	23.2027	23.7828	24.3774	24.9868	25.6115	26.2518	26.9081
2427	22.6368	23.2027	23.7828	24.3774	24.9868	25.6115	26.2518	26.9081	27.5808
2428	23.2027	23.7828	24.3774	24.9868	25.6115	26.2518	26.9081	27.5808	28.2703
2429	23.7828	24.3774	24.9868	25.6115	26.2518	26.9081	27.5808	28.2703	28.9771
2430	24.3774	24.9868	25.6115	26.2518	26.9081	27.5808	28.2703	28.9771	29.7015
2431	24.9868	25.6115	26.2518	26.9081	27.5808	28.2703	28.9771	29.7015	30.4440
2432	25.6115	26.2518	26.9081	27.5808	28.2703	28.9771	29.7015	30.4440	31.2051

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2419	1,486.32	1,523.48	1,561.57	1,600.61	1,640.62	1,681.64	1,723.68	1,766.78	1,810.94
2420	1,523.48	1,561.57	1,600.61	1,640.62	1,681.64	1,723.68	1,766.78	1,810.94	1,856.22
2421	1,561.57	1,600.61	1,640.62	1,681.64	1,723.68	1,766.78	1,810.94	1,856.22	1,902.62
2422	1,600.61	1,640.62	1,681.64	1,723.68	1,766.78	1,810.94	1,856.22	1,902.62	1,950.19
2423	1,640.62	1,681.64	1,723.68	1,766.78	1,810.94	1,856.22	1,902.62	1,950.19	1,998.94
2424	1,681.64	1,723.68	1,766.78	1,810.94	1,856.22	1,902.62	1,950.19	1,998.94	2,048.92
2425	1,723.68	1,766.78	1,810.94	1,856.22	1,902.62	1,950.19	1,998.94	2,048.92	2,100.14
2426	1,766.78	1,810.94	1,856.22	1,902.62	1,950.19	1,998.94	2,048.92	2,100.14	2,152.65
2427	1,810.94	1,856.22	1,902.62	1,950.19	1,998.94	2,048.92	2,100.14	2,152.65	2,206.46
2428	1,856.22	1,902.62	1,950.19	1,998.94	2,048.92	2,100.14	2,152.65	2,206.46	2,261.62
2429	1,902.62	1,950.19	1,998.94	2,048.92	2,100.14	2,152.65	2,206.46	2,261.62	2,318.17
2430	1,950.19	1,998.94	2,048.92	2,100.14	2,152.65	2,206.46	2,261.62	2,318.17	2,376.12
2431	1,998.94	2,048.92	2,100.14	2,152.65	2,206.46	2,261.62	2,318.17	2,376.12	2,435.52
2432	2,048.92	2,100.14	2,152.65	2,206.46	2,261.62	2,318.17	2,376.12	2,435.52	2,496.41

MONTHLY

	1	2	3	4	5	6	7	8	9
2419	3,232.75	3,313.57	3,396.41	3,481.33	3,568.35	3,657.57	3,749.00	3,842.75	3,938.79
2420	3,313.57	3,396.41	3,481.33	3,568.35	3,657.57	3,749.00	3,842.75	3,938.79	4,037.28
2421	3,396.41	3,481.33	3,568.35	3,657.57	3,749.00	3,842.75	3,938.79	4,037.28	4,138.20
2422	3,481.33	3,568.35	3,657.57	3,749.00	3,842.75	3,938.79	4,037.28	4,138.20	4,241.66
2423	3,568.35	3,657.57	3,749.00	3,842.75	3,938.79	4,037.28	4,138.20	4,241.66	4,347.69
2424	3,657.57	3,749.00	3,842.75	3,938.79	4,037.28	4,138.20	4,241.66	4,347.69	4,456.40
2425	3,749.00	3,842.75	3,938.79	4,037.28	4,138.20	4,241.66	4,347.69	4,456.40	4,567.80
2426	3,842.75	3,938.79	4,037.28	4,138.20	4,241.66	4,347.69	4,456.40	4,567.80	4,682.01
2427	3,938.79	4,037.28	4,138.20	4,241.66	4,347.69	4,456.40	4,567.80	4,682.01	4,799.05
2428	4,037.28	4,138.20	4,241.66	4,347.69	4,456.40	4,567.80	4,682.01	4,799.05	4,919.02
2429	4,138.20	4,241.66	4,347.69	4,456.40	4,567.80	4,682.01	4,799.05	4,919.02	5,042.02
2430	4,241.66	4,347.69	4,456.40	4,567.80	4,682.01	4,799.05	4,919.02	5,042.02	5,168.06
2431	4,347.69	4,456.40	4,567.80	4,682.01	4,799.05	4,919.02	5,042.02	5,168.06	5,297.26
2432	4,456.40	4,567.80	4,682.01	4,799.05	4,919.02	5,042.02	5,168.06	5,297.26	5,429.69

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
EFFECTIVE June 29, 2004

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED
HOURLY

Range	1	2	3	4	5	6	7	8	9
2433	26.2518	26.9081	27.5808	28.2703	28.9771	29.7015	30.4440	31.2051	31.9852
2434	26.9081	27.5808	28.2703	28.9771	29.7015	30.4440	31.2051	31.9852	32.7848
2435	27.5808	28.2703	28.9771	29.7015	30.4440	31.2051	31.9852	32.7848	33.6044
2436	28.2703	28.9771	29.7015	30.4440	31.2051	31.9852	32.7848	33.6044	34.4445
2437	28.9771	29.7015	30.4440	31.2051	31.9852	32.7848	33.6044	34.4445	35.3056
2438	29.7015	30.4440	31.2051	31.9852	32.7848	33.6044	34.4445	35.3056	36.1882
2439	30.4440	31.2051	31.9852	32.7848	33.6044	34.4445	35.3056	36.1882	37.0929
2440	31.2051	31.9852	32.7848	33.6044	34.4445	35.3056	36.1882	37.0929	38.0202
2441	31.9852	32.7848	33.6044	34.4445	35.3056	36.1882	37.0929	38.0202	38.9707
2442	32.7848	33.6044	34.4445	35.3056	36.1882	37.0929	38.0202	38.9707	39.9450
2443	33.6044	34.4445	35.3056	36.1882	37.0929	38.0202	38.9707	39.9450	40.9436
2444	34.4445	35.3056	36.1882	37.0929	38.0202	38.9707	39.9450	40.9436	41.9672
2445	35.3056	36.1882	37.0929	38.0202	38.9707	39.9450	40.9436	41.9672	43.0164
2446	36.1882	37.0929	38.0202	38.9707	39.9450	40.9436	41.9672	43.0164	44.0918

BIWEEKLY

	1	2	3	4	5	6	7	8	9
2433	2,100.14	2,152.65	2,206.46	2,261.62	2,318.17	2,376.12	2,435.52	2,496.41	2,558.82
2434	2,152.65	2,206.46	2,261.62	2,318.17	2,376.12	2,435.52	2,496.41	2,558.82	2,622.78
2435	2,206.46	2,261.62	2,318.17	2,376.12	2,435.52	2,496.41	2,558.82	2,622.78	2,688.35
2436	2,261.62	2,318.17	2,376.12	2,435.52	2,496.41	2,558.82	2,622.78	2,688.35	2,755.56
2437	2,318.17	2,376.12	2,435.52	2,496.41	2,558.82	2,622.78	2,688.35	2,755.56	2,824.45
2438	2,376.12	2,435.52	2,496.41	2,558.82	2,622.78	2,688.35	2,755.56	2,824.45	2,895.06
2439	2,435.52	2,496.41	2,558.82	2,622.78	2,688.35	2,755.56	2,824.45	2,895.06	2,967.43
2440	2,496.41	2,558.82	2,622.78	2,688.35	2,755.56	2,824.45	2,895.06	2,967.43	3,041.62
2441	2,558.82	2,622.78	2,688.35	2,755.56	2,824.45	2,895.06	2,967.43	3,041.62	3,117.66
2442	2,622.78	2,688.35	2,755.56	2,824.45	2,895.06	2,967.43	3,041.62	3,117.66	3,195.60
2443	2,688.35	2,755.56	2,824.45	2,895.06	2,967.43	3,041.62	3,117.66	3,195.60	3,275.49
2444	2,755.56	2,824.45	2,895.06	2,967.43	3,041.62	3,117.66	3,195.60	3,275.49	3,357.38
2445	2,824.45	2,895.06	2,967.43	3,041.62	3,117.66	3,195.60	3,275.49	3,357.38	3,441.31
2446	2,895.06	2,967.43	3,041.62	3,117.66	3,195.60	3,275.49	3,357.38	3,441.31	3,527.34

MONTHLY

	1	2	3	4	5	6	7	8	9
2433	4,567.80	4,682.01	4,799.05	4,919.02	5,042.02	5,168.06	5,297.26	5,429.69	5,565.43
2434	4,682.01	4,799.05	4,919.02	5,042.02	5,168.06	5,297.26	5,429.69	5,565.43	5,704.55
2435	4,799.05	4,919.02	5,042.02	5,168.06	5,297.26	5,429.69	5,565.43	5,704.55	5,847.16
2436	4,919.02	5,042.02	5,168.06	5,297.26	5,429.69	5,565.43	5,704.55	5,847.16	5,993.34
2437	5,042.02	5,168.06	5,297.26	5,429.69	5,565.43	5,704.55	5,847.16	5,993.34	6,143.18
2438	5,168.06	5,297.26	5,429.69	5,565.43	5,704.55	5,847.16	5,993.34	6,143.18	6,296.76
2439	5,297.26	5,429.69	5,565.43	5,704.55	5,847.16	5,993.34	6,143.18	6,296.76	6,454.16
2440	5,429.69	5,565.43	5,704.55	5,847.16	5,993.34	6,143.18	6,296.76	6,454.16	6,615.52
2441	5,565.43	5,704.55	5,847.16	5,993.34	6,143.18	6,296.76	6,454.16	6,615.52	6,780.91
2442	5,704.55	5,847.16	5,993.34	6,143.18	6,296.76	6,454.16	6,615.52	6,780.91	6,950.43
2443	5,847.16	5,993.34	6,143.18	6,296.76	6,454.16	6,615.52	6,780.91	6,950.43	7,124.19
2444	5,993.34	6,143.18	6,296.76	6,454.16	6,615.52	6,780.91	6,950.43	7,124.19	7,302.30
2445	6,143.18	6,296.76	6,454.16	6,615.52	6,780.91	6,950.43	7,124.19	7,302.30	7,484.85
2446	6,296.76	6,454.16	6,615.52	6,780.91	6,950.43	7,124.19	7,302.30	7,484.85	7,671.96

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
EFFECTIVE June 29, 2004

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

Range	ANNUAL									3.75%
	1	2	3	4	5	6	7	8	9	
2447	37,0929	38,0202	38,9707	39,9450	40,9436	41,9672	43,0164	44,0918	45,1941	
2448	38,0202	38,9707	39,9450	40,9436	41,9672	43,0164	44,0918	45,1941	46,3240	
2449	38,9707	39,9450	40,9436	41,9672	43,0164	44,0918	45,1941	46,3240	47,4821	
2450	39,9450	40,9436	41,9672	43,0164	44,0918	45,1941	46,3240	47,4821	48,6692	
2451	40,9436	41,9672	43,0164	44,0918	45,1941	46,3240	47,4821	48,6692	49,8859	
2452	41,9672	43,0164	44,0918	45,1941	46,3240	47,4821	48,6692	49,8859	51,1330	
2453	43,0164	44,0918	45,1941	46,3240	47,4821	48,6692	49,8859	51,1330	52,4113	
2454	44,0918	45,1941	46,3240	47,4821	48,6692	49,8859	51,1330	52,4113	53,7216	
2455	45,1941	46,3240	47,4821	48,6692	49,8859	51,1330	52,4113	53,7216	55,0646	
2456	46,3240	47,4821	48,6692	49,8859	51,1330	52,4113	53,7216	55,0646	56,4412	
2457	47,4821	48,6692	49,8859	51,1330	52,4113	53,7216	55,0646	56,4412	57,8522	
2458	48,6692	49,8859	51,1330	52,4113	53,7216	55,0646	56,4412	57,8522	59,2985	
2459	49,8859	51,1330	52,4113	53,7216	55,0646	56,4412	57,8522	59,2985	60,7810	
2460	51,1330	52,4113	53,7216	55,0646	56,4412	57,8522	59,2985	60,7810	62,3005	

BIWEEKLY

	1	2	3	4	5	6	7	8	9	
2447	2,967.43	3,041.62	3,117.66	3,195.60	3,275.49	3,357.38	3,441.31	3,527.34	3,615.53	
2448	3,041.62	3,117.66	3,195.60	3,275.49	3,357.38	3,441.31	3,527.34	3,615.53	3,705.92	
2449	3,117.66	3,195.60	3,275.49	3,357.38	3,441.31	3,527.34	3,615.53	3,705.92	3,798.57	
2450	3,195.60	3,275.49	3,357.38	3,441.31	3,527.34	3,615.53	3,705.92	3,798.57	3,893.54	
2451	3,275.49	3,357.38	3,441.31	3,527.34	3,615.53	3,705.92	3,798.57	3,893.54	3,990.87	
2452	3,357.38	3,441.31	3,527.34	3,615.53	3,705.92	3,798.57	3,893.54	3,990.87	4,090.64	
2453	3,441.31	3,527.34	3,615.53	3,705.92	3,798.57	3,893.54	3,990.87	4,090.64	4,192.90	
2454	3,527.34	3,615.53	3,705.92	3,798.57	3,893.54	3,990.87	4,090.64	4,192.90	4,297.73	
2455	3,615.53	3,705.92	3,798.57	3,893.54	3,990.87	4,090.64	4,192.90	4,297.73	4,405.17	
2456	3,705.92	3,798.57	3,893.54	3,990.87	4,090.64	4,192.90	4,297.73	4,405.17	4,515.30	
2457	3,798.57	3,893.54	3,990.87	4,090.64	4,192.90	4,297.73	4,405.17	4,515.30	4,628.18	
2458	3,893.54	3,990.87	4,090.64	4,192.90	4,297.73	4,405.17	4,515.30	4,628.18	4,743.88	
2459	3,990.87	4,090.64	4,192.90	4,297.73	4,405.17	4,515.30	4,628.18	4,743.88	4,862.48	
2460	4,090.64	4,192.90	4,297.73	4,405.17	4,515.30	4,628.18	4,743.88	4,862.48	4,984.04	

MONTHLY

	1	2	3	4	5	6	7	8	9	
2447	6,454.16	6,615.52	6,780.91	6,950.43	7,124.19	7,302.30	7,484.85	7,671.96	7,863.78	
2448	6,615.52	6,780.91	6,950.43	7,124.19	7,302.30	7,484.85	7,671.96	7,863.78	8,060.38	
2449	6,780.91	6,950.43	7,124.19	7,302.30	7,484.85	7,671.96	7,863.78	8,060.38	8,261.89	
2450	6,950.43	7,124.19	7,302.30	7,484.85	7,671.96	7,863.78	8,060.38	8,261.89	8,468.45	
2451	7,124.19	7,302.30	7,484.85	7,671.96	7,863.78	8,060.38	8,261.89	8,468.45	8,680.14	
2452	7,302.30	7,484.85	7,671.96	7,863.78	8,060.38	8,261.89	8,468.45	8,680.14	8,897.14	
2453	7,484.85	7,671.96	7,863.78	8,060.38	8,261.89	8,468.45	8,680.14	8,897.14	9,119.56	
2454	7,671.96	7,863.78	8,060.38	8,261.89	8,468.45	8,680.14	8,897.14	9,119.56	9,347.56	
2455	7,863.78	8,060.38	8,261.89	8,468.45	8,680.14	8,897.14	9,119.56	9,347.56	9,581.24	
2456	8,060.38	8,261.89	8,468.45	8,680.14	8,897.14	9,119.56	9,347.56	9,581.24	9,820.78	
2457	8,261.89	8,468.45	8,680.14	8,897.14	9,119.56	9,347.56	9,581.24	9,820.78	10,066.29	
2458	8,468.45	8,680.14	8,897.14	9,119.56	9,347.56	9,581.24	9,820.78	10,066.29	10,317.94	
2459	8,680.14	8,897.14	9,119.56	9,347.56	9,581.24	9,820.78	10,066.29	10,317.94	10,575.89	
2460	8,897.14	9,119.56	9,347.56	9,581.24	9,820.78	10,066.29	10,317.94	10,575.89	10,840.29	

CITY OF MODESTO
CLASS RANGE TABLE
FIRE MANAGEMENT CLASSES

Effective July 1, 2003

RANGE	TITLE
512	
513	
514	
515	
516	
517	Fire Division Chief
812	Fire Battalion Chief (112 hrs)
1812	Fire Battalion Chief (80 hrs)

EXHIBIT D

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
Effective July 1, 2003

SCHEDULE - E

MANAGEMENT/CONFIDENTIAL FIRE - 80 hours

DIVISION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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HOURLY

515	37.7937	38.7385	39.7070	40.6997	41.7172	42.7601	43.8291	44.9248	46.0479
516	38.7385	39.7070	40.6997	41.7172	42.7601	43.8291	44.9248	46.0479	47.1991
517	39.7070	40.6997	41.7172	42.7601	43.8291	44.9248	46.0479	47.1991	48.3791
518	40.6997	41.7172	42.7601	43.8291	44.9248	46.0479	47.1991	48.3791	49.5886
519	41.7172	42.7601	43.8291	44.9248	46.0479	47.1991	48.3791	49.5886	50.8283
520	42.7601	43.8291	44.9248	46.0479	47.1991	48.3791	49.5886	50.8283	52.0990
521	43.8291	44.9248	46.0479	47.1991	48.3791	49.5886	50.8283	52.0990	53.4015
522	44.9248	46.0479	47.1991	48.3791	49.5886	50.8283	52.0990	53.4015	54.7365
523	46.0479	47.1991	48.3791	49.5886	50.8283	52.0990	53.4015	54.7365	56.1049
524	47.1991	48.3791	49.5886	50.8283	52.0990	53.4015	54.7365	56.1049	57.5075
525	48.3791	49.5886	50.8283	52.0990	53.4015	54.7365	56.1049	57.5075	58.9452
526	49.5886	50.8283	52.0990	53.4015	54.7365	56.1049	57.5075	58.9452	60.4188
527	50.8283	52.0990	53.4015	54.7365	56.1049	57.5075	58.9452	60.4188	61.9293
528	52.0990	53.4015	54.7365	56.1049	57.5075	58.9452	60.4188	61.9293	63.4775

B-WEEKLY

	1	2	3	4	5	6	7	8	9
515	3,023.50	3,099.08	3,176.56	3,255.98	3,337.38	3,420.81	3,506.33	3,593.98	3,683.83
516	3,099.08	3,176.56	3,255.98	3,337.38	3,420.81	3,506.33	3,593.98	3,683.83	3,775.93
517	3,176.56	3,255.98	3,337.38	3,420.81	3,506.33	3,593.98	3,683.83	3,775.93	3,870.33
518	3,255.98	3,337.38	3,420.81	3,506.33	3,593.98	3,683.83	3,775.93	3,870.33	3,967.09
519	3,337.38	3,420.81	3,506.33	3,593.98	3,683.83	3,775.93	3,870.33	3,967.09	4,066.26
520	3,420.81	3,506.33	3,593.98	3,683.83	3,775.93	3,870.33	3,967.09	4,066.26	4,167.92
521	3,506.33	3,593.98	3,683.83	3,775.93	3,870.33	3,967.09	4,066.26	4,167.92	4,272.12
522	3,593.98	3,683.83	3,775.93	3,870.33	3,967.09	4,066.26	4,167.92	4,272.12	4,378.92
523	3,683.83	3,775.93	3,870.33	3,967.09	4,066.26	4,167.92	4,272.12	4,378.92	4,488.39
524	3,775.93	3,870.33	3,967.09	4,066.26	4,167.92	4,272.12	4,378.92	4,488.39	4,600.60
525	3,870.33	3,967.09	4,066.26	4,167.92	4,272.12	4,378.92	4,488.39	4,600.60	4,715.62
526	3,967.09	4,066.26	4,167.92	4,272.12	4,378.92	4,488.39	4,600.60	4,715.62	4,833.50
527	4,066.26	4,167.92	4,272.12	4,378.92	4,488.39	4,600.60	4,715.62	4,833.50	4,954.34
528	4,167.92	4,272.12	4,378.92	4,488.39	4,600.60	4,715.62	4,833.50	4,954.34	5,078.20

MONTHLY

	1	2	3	4	5	6	7	8	9
515	6,576.11	6,740.50	6,909.02	7,081.76	7,258.80	7,440.26	7,626.27	7,816.91	8,012.33
516	6,740.50	6,909.02	7,081.76	7,258.80	7,440.26	7,626.27	7,816.91	8,012.33	8,212.65
517	6,909.02	7,081.76	7,258.80	7,440.26	7,626.27	7,816.91	8,012.33	8,212.65	8,417.97
518	7,081.76	7,258.80	7,440.26	7,626.27	7,816.91	8,012.33	8,212.65	8,417.97	8,628.42
519	7,258.80	7,440.26	7,626.27	7,816.91	8,012.33	8,212.65	8,417.97	8,628.42	8,844.12
520	7,440.26	7,626.27	7,816.91	8,012.33	8,212.65	8,417.97	8,628.42	8,844.12	9,065.23
521	7,626.27	7,816.91	8,012.33	8,212.65	8,417.97	8,628.42	8,844.12	9,065.23	9,291.86
522	7,816.91	8,012.33	8,212.65	8,417.97	8,628.42	8,844.12	9,065.23	9,291.86	9,524.15
523	8,012.33	8,212.65	8,417.97	8,628.42	8,844.12	9,065.23	9,291.86	9,524.15	9,762.25
524	8,212.65	8,417.97	8,628.42	8,844.12	9,065.23	9,291.86	9,524.15	9,762.25	10,006.31
525	8,417.97	8,628.42	8,844.12	9,065.23	9,291.86	9,524.15	9,762.25	10,006.31	10,256.47
526	8,628.42	8,844.12	9,065.23	9,291.86	9,524.15	9,762.25	10,006.31	10,256.47	10,512.86
527	8,844.12	9,065.23	9,291.86	9,524.15	9,762.25	10,006.31	10,256.47	10,512.86	10,775.69
528	9,065.23	9,291.86	9,524.15	9,762.25	10,006.31	10,256.47	10,512.86	10,775.69	11,045.09

EXHIBIT E

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
Effective June 29, 2004

SCHEDULE - E
 MANAGEMENT/CONFIDENTIAL FIRE - 80 hours

DIVISION CHIEF

3.75%

Range	1	2	3	4	5	6	7	8	9
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HOURLY

515	39.2110	40.1913	41.1961	42.2260	43.2817	44.3637	45.4728	46.6096	47.7748
516	40.1913	41.1961	42.2260	43.2817	44.3637	45.4728	46.6096	47.7748	48.9692
517	41.1961	42.2260	43.2817	44.3637	45.4728	46.6096	47.7748	48.9692	50.1934
518	42.2260	43.2817	44.3637	45.4728	46.6096	47.7748	48.9692	50.1934	51.4482
519	43.2817	44.3637	45.4728	46.6096	47.7748	48.9692	50.1934	51.4482	52.7344
520	44.3637	45.4728	46.6096	47.7748	48.9692	50.1934	51.4482	52.7344	54.0528
521	45.4728	46.6096	47.7748	48.9692	50.1934	51.4482	52.7344	54.0528	55.4041
522	46.6096	47.7748	48.9692	50.1934	51.4482	52.7344	54.0528	55.4041	56.7892
523	47.7748	48.9692	50.1934	51.4482	52.7344	54.0528	55.4041	56.7892	58.2089
524	48.9692	50.1934	51.4482	52.7344	54.0528	55.4041	56.7892	58.2089	59.6641
525	50.1934	51.4482	52.7344	54.0528	55.4041	56.7892	58.2089	59.6641	61.1557
526	51.4482	52.7344	54.0528	55.4041	56.7892	58.2089	59.6641	61.1557	62.6846
527	52.7344	54.0528	55.4041	56.7892	58.2089	59.6641	61.1557	62.6846	64.2517
528	54.0528	55.4041	56.7892	58.2089	59.6641	61.1557	62.6846	64.2517	65.8580

B-WEEKLY

	1	2	3	4	5	6	7	8	9
515	3,136.88	3,215.30	3,295.69	3,378.08	3,462.54	3,549.10	3,637.82	3,728.77	3,821.98
516	3,215.30	3,295.69	3,378.08	3,462.54	3,549.10	3,637.82	3,728.77	3,821.98	3,917.54
517	3,295.69	3,378.08	3,462.54	3,549.10	3,637.82	3,728.77	3,821.98	3,917.54	4,015.47
518	3,378.08	3,462.54	3,549.10	3,637.82	3,728.77	3,821.98	3,917.54	4,015.47	4,115.86
519	3,462.54	3,549.10	3,637.82	3,728.77	3,821.98	3,917.54	4,015.47	4,115.86	4,218.75
520	3,549.10	3,637.82	3,728.77	3,821.98	3,917.54	4,015.47	4,115.86	4,218.75	4,324.22
521	3,637.82	3,728.77	3,821.98	3,917.54	4,015.47	4,115.86	4,218.75	4,324.22	4,432.33
522	3,728.77	3,821.98	3,917.54	4,015.47	4,115.86	4,218.75	4,324.22	4,432.33	4,543.14
523	3,821.98	3,917.54	4,015.47	4,115.86	4,218.75	4,324.22	4,432.33	4,543.14	4,656.71
524	3,917.54	4,015.47	4,115.86	4,218.75	4,324.22	4,432.33	4,543.14	4,656.71	4,773.13
525	4,015.47	4,115.86	4,218.75	4,324.22	4,432.33	4,543.14	4,656.71	4,773.13	4,892.46
526	4,115.86	4,218.75	4,324.22	4,432.33	4,543.14	4,656.71	4,773.13	4,892.46	5,014.77
527	4,218.75	4,324.22	4,432.33	4,543.14	4,656.71	4,773.13	4,892.46	5,014.77	5,140.14
528	4,324.22	4,432.33	4,543.14	4,656.71	4,773.13	4,892.46	5,014.77	5,140.14	5,268.64

MONTHLY

	1	2	3	4	5	6	7	8	9
515	6,822.71	6,993.28	7,168.13	7,347.32	7,531.02	7,719.29	7,912.26	8,110.07	8,312.81
516	6,993.28	7,168.13	7,347.32	7,531.02	7,719.29	7,912.26	8,110.07	8,312.81	8,520.65
517	7,168.13	7,347.32	7,531.02	7,719.29	7,912.26	8,110.07	8,312.81	8,520.65	8,733.65
518	7,347.32	7,531.02	7,719.29	7,912.26	8,110.07	8,312.81	8,520.65	8,733.65	8,952.00
519	7,531.02	7,719.29	7,912.26	8,110.07	8,312.81	8,520.65	8,733.65	8,952.00	9,175.78
520	7,719.29	7,912.26	8,110.07	8,312.81	8,520.65	8,733.65	8,952.00	9,175.78	9,405.18
521	7,912.26	8,110.07	8,312.81	8,520.65	8,733.65	8,952.00	9,175.78	9,405.18	9,640.32
522	8,110.07	8,312.81	8,520.65	8,733.65	8,952.00	9,175.78	9,405.18	9,640.32	9,881.33
523	8,312.81	8,520.65	8,733.65	8,952.00	9,175.78	9,405.18	9,640.32	9,881.33	10,128.34
524	8,520.65	8,733.65	8,952.00	9,175.78	9,405.18	9,640.32	9,881.33	10,128.34	10,381.5
525	8,733.65	8,952.00	9,175.78	9,405.18	9,640.32	9,881.33	10,128.34	10,381.56	10,641.10
526	8,952.00	9,175.78	9,405.18	9,640.32	9,881.33	10,128.34	10,381.56	10,641.10	10,907.12
527	9,175.78	9,405.18	9,640.32	9,881.33	10,128.34	10,381.56	10,641.10	10,907.12	11,179.80
528	9,405.18	9,640.32	9,881.33	10,128.34	10,381.56	10,641.10	10,907.12	11,179.80	11,459.29

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
Effective July 1, 2003

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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HOURLY

1812	35.6861	36.5783	37.4928	38.4301	39.3909	40.3757	41.3851	42.4197	43.4802
1813	36.5783	37.4928	38.4301	39.3909	40.3757	41.3851	42.4197	43.4802	44.5672
1814	37.4928	38.4301	39.3909	40.3757	41.3851	42.4197	43.4802	44.5672	45.6814
1815	38.4301	39.3909	40.3757	41.3851	42.4197	43.4802	44.5672	45.6814	46.8234
1816	39.3909	40.3757	41.3851	42.4197	43.4802	44.5672	45.6814	46.8234	47.9940
1817	40.3757	41.3851	42.4197	43.4802	44.5672	45.6814	46.8234	47.9940	49.1939
1818	41.3851	42.4197	43.4802	44.5672	45.6814	46.8234	47.9940	49.1939	50.4237
1819	42.4197	43.4802	44.5672	45.6814	46.8234	47.9940	49.1939	50.4237	51.6843
1820	43.4802	44.5672	45.6814	46.8234	47.9940	49.1939	50.4237	51.6843	52.9764
1821	44.5672	45.6814	46.8234	47.9940	49.1939	50.4237	51.6843	52.9764	54.3008
1822	45.6814	46.8234	47.9940	49.1939	50.4237	51.6843	52.9764	54.3008	55.6583
1823	46.8234	47.9940	49.1939	50.4237	51.6843	52.9764	54.3008	55.6583	57.0498
1824	47.9940	49.1939	50.4237	51.6843	52.9764	54.3008	55.6583	57.0498	58.4760

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1812	2,854.89	2,926.26	2,999.42	3,074.41	3,151.27	3,230.06	3,310.81	3,393.58	3,478.42
1813	2,926.26	2,999.42	3,074.41	3,151.27	3,230.06	3,310.81	3,393.58	3,478.42	3,565.38
1814	2,999.42	3,074.41	3,151.27	3,230.06	3,310.81	3,393.58	3,478.42	3,565.38	3,654.51
1815	3,074.41	3,151.27	3,230.06	3,310.81	3,393.58	3,478.42	3,565.38	3,654.51	3,745.87
1816	3,151.27	3,230.06	3,310.81	3,393.58	3,478.42	3,565.38	3,654.51	3,745.87	3,839.52
1817	3,230.06	3,310.81	3,393.58	3,478.42	3,565.38	3,654.51	3,745.87	3,839.52	3,935.51
1818	3,310.81	3,393.58	3,478.42	3,565.38	3,654.51	3,745.87	3,839.52	3,935.51	4,033.90
1819	3,393.58	3,478.42	3,565.38	3,654.51	3,745.87	3,839.52	3,935.51	4,033.90	4,134.74
1820	3,478.42	3,565.38	3,654.51	3,745.87	3,839.52	3,935.51	4,033.90	4,134.74	4,238.11
1821	3,565.38	3,654.51	3,745.87	3,839.52	3,935.51	4,033.90	4,134.74	4,238.11	4,344.06
1822	3,654.51	3,745.87	3,839.52	3,935.51	4,033.90	4,134.74	4,238.11	4,344.06	4,452.66
1823	3,745.87	3,839.52	3,935.51	4,033.90	4,134.74	4,238.11	4,344.06	4,452.66	4,563.98
1824	3,839.52	3,935.51	4,033.90	4,134.74	4,238.11	4,344.06	4,452.66	4,563.98	4,678.08

MONTHLY

	1	2	3	4	5	6	7	8	9
1812	6,209.39	6,364.62	6,523.74	6,686.84	6,854.01	7,025.38	7,201.01	7,381.04	7,565.56
1813	6,364.62	6,523.74	6,686.84	6,854.01	7,025.38	7,201.01	7,381.04	7,565.56	7,754.70
1814	6,523.74	6,686.84	6,854.01	7,025.38	7,201.01	7,381.04	7,565.56	7,754.70	7,948.56
1815	6,686.84	6,854.01	7,025.38	7,201.01	7,381.04	7,565.56	7,754.70	7,948.56	8,147.27
1816	6,854.01	7,025.38	7,201.01	7,381.04	7,565.56	7,754.70	7,948.56	8,147.27	8,350.96
1817	7,025.38	7,201.01	7,381.04	7,565.56	7,754.70	7,948.56	8,147.27	8,350.96	8,559.73
1818	7,201.01	7,381.04	7,565.56	7,754.70	7,948.56	8,147.27	8,350.96	8,559.73	8,773.73
1819	7,381.04	7,565.56	7,754.70	7,948.56	8,147.27	8,350.96	8,559.73	8,773.73	8,993.06
1820	7,565.56	7,754.70	7,948.56	8,147.27	8,350.96	8,559.73	8,773.73	8,993.06	9,217.89
1821	7,754.70	7,948.56	8,147.27	8,350.96	8,559.73	8,773.73	8,993.06	9,217.89	9,448.33
1822	7,948.56	8,147.27	8,350.96	8,559.73	8,773.73	8,993.06	9,217.89	9,448.33	9,684.54
1823	8,147.27	8,350.96	8,559.73	8,773.73	8,993.06	9,217.89	9,448.33	9,684.54	9,926.66
1824	8,350.96	8,559.73	8,773.73	8,993.06	9,217.89	9,448.33	9,684.54	9,926.66	10,174.82

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
Effective June 29, 2004

SCHEDULE - X
 FIRE MANAGEMENT - 80 HRS
 BATTALION CHIEF

37

Range	1	2	3	4	5	6	7	8	9
HOURLY									
1812	37.0243	37.9499	38.8986	39.8711	40.8679	41.8896	42.9368	44.0102	45.1105
1813	37.9499	38.8986	39.8711	40.8679	41.8896	42.9368	44.0102	45.1105	46.2383
1814	38.8986	39.8711	40.8679	41.8896	42.9368	44.0102	45.1105	46.2383	47.3943
1815	39.8711	40.8679	41.8896	42.9368	44.0102	45.1105	46.2383	47.3943	48.5792
1816	40.8679	41.8896	42.9368	44.0102	45.1105	46.2383	47.3943	48.5792	49.7937
1817	41.8896	42.9368	44.0102	45.1105	46.2383	47.3943	48.5792	49.7937	51.0385
1818	42.9368	44.0102	45.1105	46.2383	47.3943	48.5792	49.7937	51.0385	52.3145
1819	44.0102	45.1105	46.2383	47.3943	48.5792	49.7937	51.0385	52.3145	53.6224
1820	45.1105	46.2383	47.3943	48.5792	49.7937	51.0385	52.3145	53.6224	54.9630
1821	46.2383	47.3943	48.5792	49.7937	51.0385	52.3145	53.6224	54.9630	56.3371
1822	47.3943	48.5792	49.7937	51.0385	52.3145	53.6224	54.9630	56.3371	57.7455
1823	48.5792	49.7937	51.0385	52.3145	53.6224	54.9630	56.3371	57.7455	59.1891
1824	49.7937	51.0385	52.3145	53.6224	54.9630	56.3371	57.7455	59.1891	60.6688
BIWEEKLY									
	1	2	3	4	5	6	7	8	9
1812	2,961.94	3,035.99	3,111.89	3,189.69	3,269.43	3,351.17	3,434.94	3,520.82	3,608.84
1813	3,035.99	3,111.89	3,189.69	3,269.43	3,351.17	3,434.94	3,520.82	3,608.84	3,699.06
1814	3,111.89	3,189.69	3,269.43	3,351.17	3,434.94	3,520.82	3,608.84	3,699.06	3,791.54
1815	3,189.69	3,269.43	3,351.17	3,434.94	3,520.82	3,608.84	3,699.06	3,791.54	3,886.34
1816	3,269.43	3,351.17	3,434.94	3,520.82	3,608.84	3,699.06	3,791.54	3,886.34	3,983.50
1817	3,351.17	3,434.94	3,520.82	3,608.84	3,699.06	3,791.54	3,886.34	3,983.50	4,083.08
1818	3,434.94	3,520.82	3,608.84	3,699.06	3,791.54	3,886.34	3,983.50	4,083.08	4,185.16
1819	3,520.82	3,608.84	3,699.06	3,791.54	3,886.34	3,983.50	4,083.08	4,185.16	4,289.79
1820	3,608.84	3,699.06	3,791.54	3,886.34	3,983.50	4,083.08	4,185.16	4,289.79	4,397.04
1821	3,699.06	3,791.54	3,886.34	3,983.50	4,083.08	4,185.16	4,289.79	4,397.04	4,506.97
1822	3,791.54	3,886.34	3,983.50	4,083.08	4,185.16	4,289.79	4,397.04	4,506.97	4,619.64
1823	3,886.34	3,983.50	4,083.08	4,185.16	4,289.79	4,397.04	4,506.97	4,619.64	4,735.13
1824	3,983.50	4,083.08	4,185.16	4,289.79	4,397.04	4,506.97	4,619.64	4,735.13	4,853.50
MONTHLY									
	1	2	3	4	5	6	7	8	9
1812	6,442.22	6,603.28	6,768.36	6,937.58	7,111.01	7,288.79	7,470.99	7,657.78	7,849.23
1813	6,603.28	6,768.36	6,937.58	7,111.01	7,288.79	7,470.99	7,657.78	7,849.23	8,045.46
1814	6,768.36	6,937.58	7,111.01	7,288.79	7,470.99	7,657.78	7,849.23	8,045.46	8,246.60
1815	6,937.58	7,111.01	7,288.79	7,470.99	7,657.78	7,849.23	8,045.46	8,246.60	8,452.79
1816	7,111.01	7,288.79	7,470.99	7,657.78	7,849.23	8,045.46	8,246.60	8,452.79	8,664.11
1817	7,288.79	7,470.99	7,657.78	7,849.23	8,045.46	8,246.60	8,452.79	8,664.11	8,880.70
1818	7,470.99	7,657.78	7,849.23	8,045.46	8,246.60	8,452.79	8,664.11	8,880.70	9,102.72
1819	7,657.78	7,849.23	8,045.46	8,246.60	8,452.79	8,664.11	8,880.70	9,102.72	9,330.29
1820	7,849.23	8,045.46	8,246.60	8,452.79	8,664.11	8,880.70	9,102.72	9,330.29	9,563.56
1821	8,045.46	8,246.60	8,452.79	8,664.11	8,880.70	9,102.72	9,330.29	9,563.56	9,802.66
1822	8,246.60	8,452.79	8,664.11	8,880.70	9,102.72	9,330.29	9,563.56	9,802.66	10,047.72
1823	8,452.79	8,664.11	8,880.70	9,102.72	9,330.29	9,563.56	9,802.66	10,047.72	10,298.91
1824	8,664.11	8,880.70	9,102.72	9,330.29	9,563.56	9,802.66	10,047.72	10,298.91	10,556.60

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04

Effective July 1, 2003

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF

3.50%

Range	1	2	3	4	5	6	7	8	9
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HOURLY

812	25.4903	26.1276	26.7808	27.4503	28.1366	28.8400	29.5610	30.3000	31.0575
813	26.1276	26.7808	27.4503	28.1366	28.8400	29.5610	30.3000	31.0575	31.8339
814	26.7808	27.4503	28.1366	28.8400	29.5610	30.3000	31.0575	31.8339	32.6297
815	27.4503	28.1366	28.8400	29.5610	30.3000	31.0575	31.8339	32.6297	33.4454
816	28.1366	28.8400	29.5610	30.3000	31.0575	31.8339	32.6297	33.4454	34.2815
817	28.8400	29.5610	30.3000	31.0575	31.8339	32.6297	33.4454	34.2815	35.1385
818	29.5610	30.3000	31.0575	31.8339	32.6297	33.4454	34.2815	35.1385	36.0170
819	30.3000	31.0575	31.8339	32.6297	33.4454	34.2815	35.1385	36.0170	36.9174
820	31.0575	31.8339	32.6297	33.4454	34.2815	35.1385	36.0170	36.9174	37.8403
821	31.8339	32.6297	33.4454	34.2815	35.1385	36.0170	36.9174	37.8403	38.7863
822	32.6297	33.4454	34.2815	35.1385	36.0170	36.9174	37.8403	38.7863	39.7560
823	33.4454	34.2815	35.1385	36.0170	36.9174	37.8403	38.7863	39.7560	40.7499
824	34.2815	35.1385	36.0170	36.9174	37.8403	38.7863	39.7560	40.7499	41.7686

BIWEEKLY

	1	2	3	4	5	6	7	8	9
812	2,854.91	2,926.29	2,999.45	3,074.43	3,151.30	3,230.08	3,310.83	3,393.60	3,478.44
813	2,926.29	2,999.45	3,074.43	3,151.30	3,230.08	3,310.83	3,393.60	3,478.44	3,565.40
814	2,999.45	3,074.43	3,151.30	3,230.08	3,310.83	3,393.60	3,478.44	3,565.40	3,654.53
815	3,074.43	3,151.30	3,230.08	3,310.83	3,393.60	3,478.44	3,565.40	3,654.53	3,745.88
816	3,151.30	3,230.08	3,310.83	3,393.60	3,478.44	3,565.40	3,654.53	3,745.88	3,839.53
817	3,230.08	3,310.83	3,393.60	3,478.44	3,565.40	3,654.53	3,745.88	3,839.53	3,935.51
818	3,310.83	3,393.60	3,478.44	3,565.40	3,654.53	3,745.88	3,839.53	3,935.51	4,033.90
819	3,393.60	3,478.44	3,565.40	3,654.53	3,745.88	3,839.53	3,935.51	4,033.90	4,134.75
820	3,478.44	3,565.40	3,654.53	3,745.88	3,839.53	3,935.51	4,033.90	4,134.75	4,238.11
821	3,565.40	3,654.53	3,745.88	3,839.53	3,935.51	4,033.90	4,134.75	4,238.11	4,344.07
822	3,654.53	3,745.88	3,839.53	3,935.51	4,033.90	4,134.75	4,238.11	4,344.07	4,452.67
823	3,745.88	3,839.53	3,935.51	4,033.90	4,134.75	4,238.11	4,344.07	4,452.67	4,563.99
824	3,839.53	3,935.51	4,033.90	4,134.75	4,238.11	4,344.07	4,452.67	4,563.99	4,678.08

MONTHLY

	1	2	3	4	5	6	7	8	9
812	6,209.43	6,364.68	6,523.80	6,686.89	6,854.08	7,025.42	7,201.06	7,381.08	7,565.61
813	6,364.68	6,523.80	6,686.89	6,854.08	7,025.42	7,201.06	7,381.08	7,565.61	7,754.75
814	6,523.80	6,686.89	6,854.08	7,025.42	7,201.06	7,381.08	7,565.61	7,754.75	7,948.60
815	6,686.89	6,854.08	7,025.42	7,201.06	7,381.08	7,565.61	7,754.75	7,948.60	8,147.29
816	6,854.08	7,025.42	7,201.06	7,381.08	7,565.61	7,754.75	7,948.60	8,147.29	8,350.98
817	7,025.42	7,201.06	7,381.08	7,565.61	7,754.75	7,948.60	8,147.29	8,350.98	8,559.73
818	7,201.06	7,381.08	7,565.61	7,754.75	7,948.60	8,147.29	8,350.98	8,559.73	8,773.73
819	7,381.08	7,565.61	7,754.75	7,948.60	8,147.29	8,350.98	8,559.73	8,773.73	8,993.08
820	7,565.61	7,754.75	7,948.60	8,147.29	8,350.98	8,559.73	8,773.73	8,993.08	9,217.89
821	7,754.75	7,948.60	8,147.29	8,350.98	8,559.73	8,773.73	8,993.08	9,217.89	9,448.35
822	7,948.60	8,147.29	8,350.98	8,559.73	8,773.73	8,993.08	9,217.89	9,448.35	9,684.56
823	8,147.29	8,350.98	8,559.73	8,773.73	8,993.08	9,217.89	9,448.35	9,684.56	9,926.68
824	8,350.98	8,559.73	8,773.73	8,993.08	9,217.89	9,448.35	9,684.56	9,926.68	10,174.82

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
Effective June 29, 2004

SCHEDULE - Y
 FIRE MANAGEMENT - 112 HRS
 BATTALION CHIEF

3.75%

Range	1	2	3	4	5	6	7	8	9
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HOURLY

812	26.4462	27.1074	27.7851	28.4797	29.1917	29.9215	30.6695	31.4362	32.2221
813	27.1074	27.7851	28.4797	29.1917	29.9215	30.6695	31.4362	32.2221	33.0277
814	27.7851	28.4797	29.1917	29.9215	30.6695	31.4362	32.2221	33.0277	33.8534
815	28.4797	29.1917	29.9215	30.6695	31.4362	32.2221	33.0277	33.8534	34.6997
816	29.1917	29.9215	30.6695	31.4362	32.2221	33.0277	33.8534	34.6997	35.5672
817	29.9215	30.6695	31.4362	32.2221	33.0277	33.8534	34.6997	35.5672	36.4564
818	30.6695	31.4362	32.2221	33.0277	33.8534	34.6997	35.5672	36.4564	37.3678
819	31.4362	32.2221	33.0277	33.8534	34.6997	35.5672	36.4564	37.3678	38.3020
820	32.2221	33.0277	33.8534	34.6997	35.5672	36.4564	37.3678	38.3020	39.2596
821	33.0277	33.8534	34.6997	35.5672	36.4564	37.3678	38.3020	39.2596	40.2411
822	33.8534	34.6997	35.5672	36.4564	37.3678	38.3020	39.2596	40.2411	41.2471
823	34.6997	35.5672	36.4564	37.3678	38.3020	39.2596	40.2411	41.2471	42.2783
824	35.5672	36.4564	37.3678	38.3020	39.2596	40.2411	41.2471	42.2783	43.3353

BIWEEKLY

	1	2	3	4	5	6	7	8	9
812	2,961.97	3,036.03	3,111.93	3,189.73	3,269.47	3,351.21	3,434.98	3,520.85	3,608.88
813	3,036.03	3,111.93	3,189.73	3,269.47	3,351.21	3,434.98	3,520.85	3,608.88	3,699.10
814	3,111.93	3,189.73	3,269.47	3,351.21	3,434.98	3,520.85	3,608.88	3,699.10	3,791.58
815	3,189.73	3,269.47	3,351.21	3,434.98	3,520.85	3,608.88	3,699.10	3,791.58	3,886.37
816	3,269.47	3,351.21	3,434.98	3,520.85	3,608.88	3,699.10	3,791.58	3,886.37	3,983.53
817	3,351.21	3,434.98	3,520.85	3,608.88	3,699.10	3,791.58	3,886.37	3,983.53	4,083.12
818	3,434.98	3,520.85	3,608.88	3,699.10	3,791.58	3,886.37	3,983.53	4,083.12	4,185.19
819	3,520.85	3,608.88	3,699.10	3,791.58	3,886.37	3,983.53	4,083.12	4,185.19	4,289.82
820	3,608.88	3,699.10	3,791.58	3,886.37	3,983.53	4,083.12	4,185.19	4,289.82	4,397.08
821	3,699.10	3,791.58	3,886.37	3,983.53	4,083.12	4,185.19	4,289.82	4,397.08	4,507.00
822	3,791.58	3,886.37	3,983.53	4,083.12	4,185.19	4,289.82	4,397.08	4,507.00	4,619.68
823	3,886.37	3,983.53	4,083.12	4,185.19	4,289.82	4,397.08	4,507.00	4,619.68	4,735.17
824	3,983.53	4,083.12	4,185.19	4,289.82	4,397.08	4,507.00	4,619.68	4,735.17	4,853.55

MONTHLY

	1	2	3	4	5	6	7	8	9
812	6,442.28	6,603.37	6,768.45	6,937.66	7,111.10	7,288.88	7,471.08	7,657.85	7,849.31
813	6,603.37	6,768.45	6,937.66	7,111.10	7,288.88	7,471.08	7,657.85	7,849.31	8,045.54
814	6,768.45	6,937.66	7,111.10	7,288.88	7,471.08	7,657.85	7,849.31	8,045.54	8,246.69
815	6,937.66	7,111.10	7,288.88	7,471.08	7,657.85	7,849.31	8,045.54	8,246.69	8,452.85
816	7,111.10	7,288.88	7,471.08	7,657.85	7,849.31	8,045.54	8,246.69	8,452.85	8,664.18
817	7,288.88	7,471.08	7,657.85	7,849.31	8,045.54	8,246.69	8,452.85	8,664.18	8,880.79
818	7,471.08	7,657.85	7,849.31	8,045.54	8,246.69	8,452.85	8,664.18	8,880.79	9,102.79
819	7,657.85	7,849.31	8,045.54	8,246.69	8,452.85	8,664.18	8,880.79	9,102.79	9,330.36
820	7,849.31	8,045.54	8,246.69	8,452.85	8,664.18	8,880.79	9,102.79	9,330.36	9,563.65
821	8,045.54	8,246.69	8,452.85	8,664.18	8,880.79	9,102.79	9,330.36	9,563.65	9,802.73
822	8,246.69	8,452.85	8,664.18	8,880.79	9,102.79	9,330.36	9,563.65	9,802.73	10,047.80
823	8,452.85	8,664.18	8,880.79	9,102.79	9,330.36	9,563.65	9,802.73	10,047.80	10,298.99
824	8,664.18	8,880.79	9,102.79	9,330.36	9,563.65	9,802.73	10,047.80	10,298.99	10,556.47

CITY OF MODESTO
CLASS RANGE TABLE
POLICE MANAGEMENT CLASSES (Unrepresented)

Effective **July 1, 2003**

RANGE	TITLE
1612	
1613	
1614	
1615	
1616	
1617	
1618	
1619	
1620	
1622	Police Captain

EXHIBIT K

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
EFFECTIVE July 1, 2003

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED
HOURLY

3.50%

Range	1	2	3	4	5	6	7	8	9
1615	33.5735	34.4128	35.2731	36.1549	37.0588	37.9853	38.9349	39.9083	40.9060
1616	34.4128	35.2731	36.1549	37.0588	37.9853	38.9349	39.9083	40.9060	41.9287
1617	35.2731	36.1549	37.0588	37.9853	38.9349	39.9083	40.9060	41.9287	42.9769
1618	36.1549	37.0588	37.9853	38.9349	39.9083	40.9060	41.9287	42.9769	44.0513
1619	37.0588	37.9853	38.9349	39.9083	40.9060	41.9287	42.9769	44.0513	45.1526
1620	37.9853	38.9349	39.9083	40.9060	41.9287	42.9769	44.0513	45.1526	46.2814
1621	38.9349	39.9083	40.9060	41.9287	42.9769	44.0513	45.1526	46.2814	47.4384
1622	39.9083	40.9060	41.9287	42.9769	44.0513	45.1526	46.2814	47.4384	48.6244
1623	40.9060	41.9287	42.9769	44.0513	45.1526	46.2814	47.4384	48.6244	49.8400
1624	41.9287	42.9769	44.0513	45.1526	46.2814	47.4384	48.6244	49.8400	51.0860
1625	42.9769	44.0513	45.1526	46.2814	47.4384	48.6244	49.8400	51.0860	52.3632
1626	44.0513	45.1526	46.2814	47.4384	48.6244	49.8400	51.0860	52.3632	53.6723
1627	45.1526	46.2814	47.4384	48.6244	49.8400	51.0860	52.3632	53.6723	55.0141
1628	46.2814	47.4384	48.6244	49.8400	51.0860	52.3632	53.6723	55.0141	56.3895

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1615	2,685.88	2,753.02	2,821.85	2,892.39	2,964.70	3,038.82	3,114.79	3,192.66	3,272.48
1616	2,753.02	2,821.85	2,892.39	2,964.70	3,038.82	3,114.79	3,192.66	3,272.48	3,354.30
1617	2,821.85	2,892.39	2,964.70	3,038.82	3,114.79	3,192.66	3,272.48	3,354.30	3,438.15
1618	2,892.39	2,964.70	3,038.82	3,114.79	3,192.66	3,272.48	3,354.30	3,438.15	3,524.10
1619	2,964.70	3,038.82	3,114.79	3,192.66	3,272.48	3,354.30	3,438.15	3,524.10	3,612.21
1620	3,038.82	3,114.79	3,192.66	3,272.48	3,354.30	3,438.15	3,524.10	3,612.21	3,702.51
1621	3,114.79	3,192.66	3,272.48	3,354.30	3,438.15	3,524.10	3,612.21	3,702.51	3,795.07
1622	3,192.66	3,272.48	3,354.30	3,438.15	3,524.10	3,612.21	3,702.51	3,795.07	3,889.95
1623	3,272.48	3,354.30	3,438.15	3,524.10	3,612.21	3,702.51	3,795.07	3,889.95	3,987.20
1624	3,354.30	3,438.15	3,524.10	3,612.21	3,702.51	3,795.07	3,889.95	3,987.20	4,086.88
1625	3,438.15	3,524.10	3,612.21	3,702.51	3,795.07	3,889.95	3,987.20	4,086.88	4,189.06
1626	3,524.10	3,612.21	3,702.51	3,795.07	3,889.95	3,987.20	4,086.88	4,189.06	4,293.78
1627	3,612.21	3,702.51	3,795.07	3,889.95	3,987.20	4,086.88	4,189.06	4,293.78	4,401.13
1628	3,702.51	3,795.07	3,889.95	3,987.20	4,086.88	4,189.06	4,293.78	4,401.13	4,511.16

MONTHLY

	1	2	3	4	5	6	7	8	9
1615	5,841.79	5,987.82	6,137.52	6,290.95	6,448.22	6,609.43	6,774.67	6,944.04	7,117.64
1616	5,987.82	6,137.52	6,290.95	6,448.22	6,609.43	6,774.67	6,944.04	7,117.64	7,295.60
1617	6,137.52	6,290.95	6,448.22	6,609.43	6,774.67	6,944.04	7,117.64	7,295.60	7,477.98
1618	6,290.95	6,448.22	6,609.43	6,774.67	6,944.04	7,117.64	7,295.60	7,477.98	7,664.92
1619	6,448.22	6,609.43	6,774.67	6,944.04	7,117.64	7,295.60	7,477.98	7,664.92	7,856.56
1620	6,609.43	6,774.67	6,944.04	7,117.64	7,295.60	7,477.98	7,664.92	7,856.56	8,052.96
1621	6,774.67	6,944.04	7,117.64	7,295.60	7,477.98	7,664.92	7,856.56	8,052.96	8,254.28
1622	6,944.04	7,117.64	7,295.60	7,477.98	7,664.92	7,856.56	8,052.96	8,254.28	8,460.64
1623	7,117.64	7,295.60	7,477.98	7,664.92	7,856.56	8,052.96	8,254.28	8,460.64	8,672.16
1624	7,295.60	7,477.98	7,664.92	7,856.56	8,052.96	8,254.28	8,460.64	8,672.16	8,888.96
1625	7,477.98	7,664.92	7,856.56	8,052.96	8,254.28	8,460.64	8,672.16	8,888.96	9,111.21
1626	7,664.92	7,856.56	8,052.96	8,254.28	8,460.64	8,672.16	8,888.96	9,111.21	9,338.97
1627	7,856.56	8,052.96	8,254.28	8,460.64	8,672.16	8,888.96	9,111.21	9,338.97	9,572.46
1628	8,052.96	8,254.28	8,460.64	8,672.16	8,888.96	9,111.21	9,338.97	9,572.46	9,811.77

EXHIBIT L

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
EFFECTIVE June 29, 2004

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED

HOURLY

3.75%

Range	1	2	3	4	5	6	7	8	9
1615	34.8323	35.7031	36.5957	37.5106	38.4484	39.4096	40.3948	41.4047	42.4398
1616	35.7031	36.5957	37.5106	38.4484	39.4096	40.3948	41.4047	42.4398	43.5008
1617	36.5957	37.5106	38.4484	39.4096	40.3948	41.4047	42.4398	43.5008	44.5883
1618	37.5106	38.4484	39.4096	40.3948	41.4047	42.4398	43.5008	44.5883	45.7030
1619	38.4484	39.4096	40.3948	41.4047	42.4398	43.5008	44.5883	45.7030	46.8456
1620	39.4096	40.3948	41.4047	42.4398	43.5008	44.5883	45.7030	46.8456	48.0167
1621	40.3948	41.4047	42.4398	43.5008	44.5883	45.7030	46.8456	48.0167	49.2171
1622	41.4047	42.4398	43.5008	44.5883	45.7030	46.8456	48.0167	49.2171	50.4475
1623	42.4398	43.5008	44.5883	45.7030	46.8456	48.0167	49.2171	50.4475	51.7087
1624	43.5008	44.5883	45.7030	46.8456	48.0167	49.2171	50.4475	51.7087	53.0014
1625	44.5883	45.7030	46.8456	48.0167	49.2171	50.4475	51.7087	53.0014	54.3264
1626	45.7030	46.8456	48.0167	49.2171	50.4475	51.7087	53.0014	54.3264	55.6846
1627	46.8456	48.0167	49.2171	50.4475	51.7087	53.0014	54.3264	55.6846	57.0767
1628	48.0167	49.2171	50.4475	51.7087	53.0014	54.3264	55.6846	57.0767	58.5036

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1615	2,786.58	2,856.25	2,927.66	3,000.85	3,075.87	3,152.77	3,231.58	3,312.38	3,395.18
1616	2,856.25	2,927.66	3,000.85	3,075.87	3,152.77	3,231.58	3,312.38	3,395.18	3,480.06
1617	2,927.66	3,000.85	3,075.87	3,152.77	3,231.58	3,312.38	3,395.18	3,480.06	3,567.06
1618	3,000.85	3,075.87	3,152.77	3,231.58	3,312.38	3,395.18	3,480.06	3,567.06	3,656.24
1619	3,075.87	3,152.77	3,231.58	3,312.38	3,395.18	3,480.06	3,567.06	3,656.24	3,747.65
1620	3,152.77	3,231.58	3,312.38	3,395.18	3,480.06	3,567.06	3,656.24	3,747.65	3,841.34
1621	3,231.58	3,312.38	3,395.18	3,480.06	3,567.06	3,656.24	3,747.65	3,841.34	3,937.37
1622	3,312.38	3,395.18	3,480.06	3,567.06	3,656.24	3,747.65	3,841.34	3,937.37	4,035.80
1623	3,395.18	3,480.06	3,567.06	3,656.24	3,747.65	3,841.34	3,937.37	4,035.80	4,136.70
1624	3,480.06	3,567.06	3,656.24	3,747.65	3,841.34	3,937.37	4,035.80	4,136.70	4,240.11
1625	3,567.06	3,656.24	3,747.65	3,841.34	3,937.37	4,035.80	4,136.70	4,240.11	4,346.11
1626	3,656.24	3,747.65	3,841.34	3,937.37	4,035.80	4,136.70	4,240.11	4,346.11	4,454.77
1627	3,747.65	3,841.34	3,937.37	4,035.80	4,136.70	4,240.11	4,346.11	4,454.77	4,566.14
1628	3,841.34	3,937.37	4,035.80	4,136.70	4,240.11	4,346.11	4,454.77	4,566.14	4,680.29

MONTHLY

	1	2	3	4	5	6	7	8	9
1615	6,060.81	6,212.34	6,367.66	6,526.85	6,690.02	6,857.27	7,028.69	7,204.43	7,384.52
1616	6,212.34	6,367.66	6,526.85	6,690.02	6,857.27	7,028.69	7,204.43	7,384.52	7,569.13
1617	6,367.66	6,526.85	6,690.02	6,857.27	7,028.69	7,204.43	7,384.52	7,569.13	7,758.36
1618	6,526.85	6,690.02	6,857.27	7,028.69	7,204.43	7,384.52	7,569.13	7,758.36	7,952.32
1619	6,690.02	6,857.27	7,028.69	7,204.43	7,384.52	7,569.13	7,758.36	7,952.32	8,151.14
1620	6,857.27	7,028.69	7,204.43	7,384.52	7,569.13	7,758.36	7,952.32	8,151.14	8,354.91
1621	7,028.69	7,204.43	7,384.52	7,569.13	7,758.36	7,952.32	8,151.14	8,354.91	8,563.78
1622	7,204.43	7,384.52	7,569.13	7,758.36	7,952.32	8,151.14	8,354.91	8,563.78	8,777.87
1623	7,384.52	7,569.13	7,758.36	7,952.32	8,151.14	8,354.91	8,563.78	8,777.87	8,997.32
1624	7,569.13	7,758.36	7,952.32	8,151.14	8,354.91	8,563.78	8,777.87	8,997.32	9,222.24
1625	7,758.36	7,952.32	8,151.14	8,354.91	8,563.78	8,777.87	8,997.32	9,222.24	9,452.79
1626	7,952.32	8,151.14	8,354.91	8,563.78	8,777.87	8,997.32	9,222.24	9,452.79	9,689.12
1627	8,151.14	8,354.91	8,563.78	8,777.87	8,997.32	9,222.24	9,452.79	9,689.12	9,931.35
1628	8,354.91	8,563.78	8,777.87	8,997.32	9,222.24	9,452.79	9,689.12	9,931.35	10,179.63

EXHIBIT M

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT

Effective July 1, 2003

RANGE	TITLE
1410	City Clerk/Auditor
1411 – 1417	
1418	
1419	
1420	Finance Director Operations and Maintenance Director Personnel Director Recreation and Neighborhoods Director
1421	
1422	Chief Information Officer Community Development Director
1423	Engineering and Transportation Director
1424	
1425	Fire Chief Police Chief
1426	
1427	Deputy City Manager
1428	City Attorney
1429 – 1432	
1433	City Manager

EXHIBIT N

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 03-04
EFFECTIVE July 1, 2003

Executive Management

3.50%

	HOURLY		Bi-weekly		Monthly	
1405	31.4636	39.3295	2,517.09	3,146.36	5,474.67	6,843.33
1406	32.2502	40.3128	2,580.02	3,225.02	5,611.54	7,014.42
1407	33.0565	41.3206	2,644.52	3,305.65	5,751.83	7,189.79
1408	33.8829	42.3536	2,710.63	3,388.29	5,895.62	7,369.53
1409	34.7300	43.4125	2,778.40	3,473.00	6,043.02	7,553.78
1410	35.5983	44.4979	2,847.86	3,559.83	6,194.10	7,742.63
1411	36.4883	45.6104	2,919.06	3,648.83	6,348.96	7,936.21
1412	37.4005	46.7506	2,992.04	3,740.05	6,507.69	8,134.61
1413	38.3355	47.9194	3,066.84	3,833.55	6,670.38	8,337.97
1414	39.2939	49.1174	3,143.51	3,929.39	6,837.13	8,546.42
1415	40.2762	50.3453	3,222.10	4,027.62	7,008.07	8,760.07
1416	41.2831	51.6039	3,302.65	4,128.31	7,183.26	8,979.07
1417	42.3152	52.8940	3,385.22	4,231.52	7,362.85	9,203.56
1418	43.3731	54.2164	3,469.85	4,337.31	7,546.92	9,433.65
1419	44.4574	55.5718	3,556.59	4,445.74	7,735.58	9,669.48
1420	45.5688	56.9610	3,645.50	4,556.88	7,928.96	9,911.21
1421	46.7080	58.3850	3,736.64	4,670.80	8,127.19	10,158.99
1422	47.8757	59.8446	3,830.06	4,787.57	8,330.38	10,412.96
1423	49.0726	61.3408	3,925.81	4,907.26	8,538.64	10,673.29
1424	50.2994	62.8743	4,023.95	5,029.94	8,752.09	10,940.12
1425	51.5569	64.4461	4,124.55	5,155.69	8,970.90	11,213.63
1426	52.8458	66.0573	4,227.66	5,284.58	9,195.16	11,493.96
1427	54.1669	67.7086	4,333.35	5,416.69	9,425.04	11,781.30
1428	55.5211	69.4014	4,441.69	5,552.11	9,660.68	12,075.84
1429	56.9091	71.1364	4,552.73	5,690.91	9,902.19	12,377.73
1430	58.3318	72.9148	4,666.54	5,833.18	10,149.72	12,687.17
1431	59.7901	74.7376	4,783.21	5,979.01	10,403.48	13,004.35
1432	61.2849	76.6061	4,902.79	6,128.49	10,663.57	13,329.47
1433	62.8170	78.5213	5,025.36	6,281.70	10,930.16	13,662.70
1434	64.3874	80.4843	5,150.99	6,438.74	11,203.40	14,004.26
1435	65.9971	82.4964	5,279.77	6,599.71	11,483.50	14,354.37

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 04-05
EFFECTIVE June 29, 2004

Executive Management

3.75%

	HOURLY		Bi-weekly		Monthly	
1405	32.6435	40.8044	2,611.48	3,264.35	5,679.97	7,099.96
1406	33.4596	41.8245	2,676.77	3,345.96	5,821.97	7,277.46
1407	34.2961	42.8701	2,743.69	3,429.61	5,967.53	7,459.40
1408	35.1535	43.9419	2,812.28	3,515.35	6,116.71	7,645.89
1409	36.0323	45.0404	2,882.58	3,603.23	6,269.61	7,837.03
1410	36.9331	46.1664	2,954.65	3,693.31	6,426.36	8,032.95
1411	37.8564	47.3205	3,028.51	3,785.64	6,587.01	8,233.77
1412	38.8028	48.5035	3,104.22	3,880.28	6,751.68	8,439.61
1413	39.7729	49.7161	3,181.83	3,977.29	6,920.48	8,650.61
1414	40.7672	50.9590	3,261.38	4,076.72	7,093.50	8,866.87
1415	41.7864	52.2330	3,342.91	4,178.64	7,270.83	9,088.54
1416	42.8311	53.5389	3,426.49	4,283.11	7,452.62	9,315.76
1417	43.9019	54.8774	3,512.15	4,390.19	7,638.93	9,548.66
1418	44.9994	56.2493	3,599.95	4,499.94	7,829.89	9,787.37
1419	46.1244	57.6555	3,689.95	4,612.44	8,025.64	10,032.06
1420	47.2775	59.0969	3,782.20	4,727.75	8,226.29	10,282.86
1421	48.4594	60.5743	3,876.75	4,845.94	8,431.93	10,539.92
1422	49.6709	62.0886	3,973.67	4,967.09	8,642.73	10,803.42
1423	50.9127	63.6409	4,073.02	5,091.27	8,858.82	11,073.51
1424	52.1855	65.2319	4,174.84	5,218.55	9,080.28	11,350.35
1425	53.4901	66.8626	4,279.21	5,349.01	9,307.28	11,634.10
1426	54.8274	68.5343	4,386.19	5,482.74	9,539.96	11,924.96
1427	56.1981	70.2476	4,495.85	5,619.81	9,778.47	12,223.09
1428	57.6031	72.0039	4,608.25	5,760.31	10,022.94	12,528.67
1429	59.0432	73.8040	4,723.46	5,904.32	10,273.53	12,841.90
1430	60.5193	75.6491	4,841.54	6,051.93	10,530.35	13,162.95
1431	62.0323	77.5404	4,962.58	6,203.23	10,793.61	13,492.03
1432	63.5831	79.4789	5,086.65	6,358.31	11,063.46	13,829.32
1433	65.1727	81.4659	5,213.82	6,517.27	11,340.06	14,175.06
1434	66.8020	83.5025	5,344.16	6,680.20	11,623.55	14,529.44
1435	68.4721	85.5901	5,477.77	6,847.21	11,914.15	14,892.68

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-331

A RESOLUTION TO AMEND EXHIBITS "A" AND "B" OF RESOLUTION NO. 2002-307 AND TO ESTABLISH THE CLASS RANGE TABLE AND THE SALARY SCHEDULE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AND TO REVISE THE SALARY RANGE FOR THE CLASSIFICATION OF RISK MANAGER; AND TO AMEND RESOLUTION NO. 2003-178, MODESTO CONFIDENTIAL & MANAGEMENT ASSOCIATION MEMORANDUM OF UNDERSTANDING, TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO REVISE THE SALARY RANGE FOR THE CLASSIFICATION OF WORKERS' COMPENSATION CLAIMS EXAMINER I AND WORKERS' COMPENSATION CLAIMS EXAMINER II.

WHEREAS, the City Council desires to amend Resolution No. 2002-307 and to establish the Class Range Table and the Salary Schedule for Unrepresented Management and Confidential Non-Sworn Classes and to revise the Salary Range for the Classification of Risk Manager, and

WHEREAS, the City Council desires to amend Resolution No. 2003-178 (MCMA MOU) to amend the Class Range Table for Represented Management and Confidential Non-Sworn Classes to revise the Salary Range for the Classification of Workers' Compensation Claims Examiner I and Workers' Compensation Claims Examiner II,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2002-307. Exhibit "A" entitled "City Of Modesto Class Range Table, Management And Confidential Non-Sworn Classes, Effective June 18, 2002," attached to Resolution 2002-307, is hereby amended as shown on the amended Exhibit "A," entitled City Of Modesto Class Range Table

Unrepresented Management and Confidential Non-Sworn Classes Effective June 24, 2003." Said Exhibit "A," which is attached hereto and made a part hereof as though set forth in full herein, establishes the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes effective June 24, 2003, and revises the salary range for Risk Manager from Range 441 to Range 2444. Exhibit "B" of Resolution 2002-307 entitled "City Of Modesto Schedule of Salary Ranges In City Service For FY 02/03 Effective June 18, 2002 –Schedule D Management/Confidential –General" is hereby amended as shown on the amended Exhibit "B," entitled "City of Modesto Schedule of Salary Ranges in City Service For FY 02-03 Effective June 24, 2003 Schedule H Management/Confidential Non-Sworn Unrepresented." Said amended Exhibit "B," which is attached hereto and made a part hereof as though set forth in full herein, establishes the salary schedule for Unrepresented Management & Confidential Non-Sworn Classes effective June 24, 2003.

SECTION 2. AMENDMENT TO RESOLUTION NO. 2003-178 (MCMA MOU), Resolution No. 2003-178 effective April 8, 2003, is hereby amended as shown on Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 24, 2003," which is attached hereto and made a part hereof as though set forth in full herein. Said Exhibit "A" sets forth the Represented Management and Confidential Non-Sworn Classes and revises the salary range for Workers' Compensation Claims Examiner I from Range 420 to Range 422 and Workers' Compensation Claims Examiner II from Range 424 to Range 427.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after June 24, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 24, 2003**

RANGE	TITLE
403	Administrative Office Assistant I (Confidential)
407	Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Senior Personnel Clerk
414	
415	Senior Administrative Office Assistant (Confidential)
416	
417	
418	Legal Secretary
419	Police Training and Records Technician (Confidential) Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (excluding positions in Personnel & City Manager's Office) Legal Services Technician Systems Technician
421	

Exhibit "A"

RANGE TITLE

422 Office Supervisor
 Utility Dispatch Supervisor
 Workers' Compensation Claims Examiner I

423 Custodian Supervisor

424 Assistant Planner
 Buyer

425 Administrative Analyst I

426 Police Support Services Supervisor
 Stores Manager

427 Assistant City Clerk/Auditor
 Legal Services Administrator
 Workers' Compensation Claims Examiner II

428 Accountant II (excluding positions in the City Clerk's Office)
 Customer Services Specialist
 Customer Services Supervisor
 Senior Buyer

429

430 Associate Planner
 Events Supervisor I
 Junior Civil Engineer
 Senior Crime Analyst
 Social Services Program Supervisor

431 Administrative Analyst II
 Assistant Risk Manager
 Budget Analyst I
 Geographic Information Systems Analyst
 Personnel Analyst
 Recycling Program Coordinator
 Senior Community Development Program Specialist
 Systems Analyst

Exhibit "A"

RANGE TITLE

432 Communications Specialist
 Industrial Waste Supervisor
 Neighborhood Preservation Supervisor
 Operations and Maintenance Supervisor
 Recreation Supervisor II
 Senior Accountant
 Water Quality Control Maintenance Supervisor
 Water Quality Control Operations Supervisor
 Youth Program Supervisor

433 Organizational Development Specialist

434 Arborist
 Assistant Civil Engineer
 Assistant Traffic Engineer
 Budget Analyst II
 Electrical Supervisor
 Events Supervisor II
 Geographic Information Systems Coordinator
 Operations Supervisor
 SCADA Supervisor
 Senior Housing Rehabilitation Specialist
 Senior Programmer Analyst

435 Business Analyst
 Cultural Services Manager
 Integrated Waste Specialist
 Management Analyst
 Senior Personnel Analyst

436 Senior Planner

437

Exhibit "A"

RANGE TITLE

- 438 Budget Officer
 Communications and Marketing Manager
 Development and Operations Coordinator
 Financial/Investment Officer
 Housing Program Supervisor
 Land Surveyor
 Property Agent
 Purchasing Supervisor
 Senior Business Analyst
 Systems Engineer
 Transportation Planner
- 439 Administrative Services Officer
 Community Facilities Districts Administrative Officer
- 440 Associate Civil Engineer
 Associate Traffic Engineer
- 441 Airport Manager
 Building Maintenance Superintendent
 Fire Marshal
 Fleet Manager
 Golf Services Manager
 Parks Operations Superintendent
 Parks Planning and Development Manager
 Police Records Manager
 Recreation Superintendent
 Solid Waste Program Manager
 Streets Engineer
 Transit Manager
 Urban Forestry Superintendent
 Wastewater Collections Superintendent
 Water Superintendent
- 442 Customer Services Division Manager
 Information Services Manager
 Manager of Budget and Financial Analysis
 Supervising Building Inspector
 Supervising Construction Inspector

443

Exhibit "A"

RANGE	TITLE
-------	-------

444	Business Development Manager Deputy Chief Building Official General Services Manager Principal Planner
445	Accounting Division Manager Housing and Neighborhoods Division Manager
446	Water Quality Control Superintendent
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
448	
449	
450	
451	
452	
453	
455	

Exhibit "A"

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective June 24, 2003

RANGE	TITLE
-------	-------

2419

2420 Executive Secretary – Personnel and City Manager’s Offices

2421 - 2424

2425 Executive Assistant
Paralegal

2426 - 2427

2428 Accountant II- in City Clerk’s office

2429 - 2430

2431 Equal Opportunity Officer

2432 - 2436

2437 Deputy City Attorney I

2438 - 2440

2441 Assistant Personnel Director
Deputy City Attorney II

2442

2443 Senior Deputy City Attorney I

2444 Risk Manager

2445 -2446

2447 Assistant to City Manager

2448

Exhibit "A"

RANGE	TITLE
-------	-------

2449 Senior Deputy City Attorney II

2450 - 2451

2452 Deputy Director – Cultural and Enterprise Services
Deputy Director – Engineering & Transportation
Deputy Director of Finance
Deputy Director – Operations and Maintenance
Deputy Director – Recreation and Neighborhoods

2453 - 2454

2455 Assistant City Attorney

Exhibit "A"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 02-03
Effective June 24, 2003

SCHEDULE - H

MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

DIRLY

4.00%

Grade	1	2	3	4	5	6	7	8	9
2419	17.3019	17.7344	18.1778	18.6322	19.0980	19.5755	20.0649	20.5665	21.0807
2420	17.7344	18.1778	18.6322	19.0980	19.5755	20.0649	20.5665	21.0807	21.6077
2421	18.1778	18.6322	19.0980	19.5755	20.0649	20.5665	21.0807	21.6077	22.1479
2422	18.6322	19.0980	19.5755	20.0649	20.5665	21.0807	21.6077	22.1479	22.7016
2423	19.0980	19.5755	20.0649	20.5665	21.0807	21.6077	22.1479	22.7016	23.2691
2424	19.5755	20.0649	20.5665	21.0807	21.6077	22.1479	22.7016	23.2691	23.8508
2425	20.0649	20.5665	21.0807	21.6077	22.1479	22.7016	23.2691	23.8508	24.4471
2426	20.5665	21.0807	21.6077	22.1479	22.7016	23.2691	23.8508	24.4471	25.0583
2427	21.0807	21.6077	22.1479	22.7016	23.2691	23.8508	24.4471	25.0583	25.6848
2428	21.6077	22.1479	22.7016	23.2691	23.8508	24.4471	25.0583	25.6848	26.3269
2429	22.1479	22.7016	23.2691	23.8508	24.4471	25.0583	25.6848	26.3269	26.9851
2430	22.7016	23.2691	23.8508	24.4471	25.0583	25.6848	26.3269	26.9851	27.6597
2431	23.2691	23.8508	24.4471	25.0583	25.6848	26.3269	26.9851	27.6597	28.3512
2432	23.8508	24.4471	25.0583	25.6848	26.3269	26.9851	27.6597	28.3512	29.0600

BIWEEKLY	1	2	3	4	5	6	7	8	9
2419	1,384.15	1,418.75	1,454.22	1,490.58	1,527.84	1,566.04	1,605.19	1,645.32	1,686.46
2420	1,418.75	1,454.22	1,490.58	1,527.84	1,566.04	1,605.19	1,645.32	1,686.46	1,728.62
2421	1,454.22	1,490.58	1,527.84	1,566.04	1,605.19	1,645.32	1,686.46	1,728.62	1,771.83
2422	1,490.58	1,527.84	1,566.04	1,605.19	1,645.32	1,686.46	1,728.62	1,771.83	1,816.13
2423	1,527.84	1,566.04	1,605.19	1,645.32	1,686.46	1,728.62	1,771.83	1,816.13	1,861.53
2424	1,566.04	1,605.19	1,645.32	1,686.46	1,728.62	1,771.83	1,816.13	1,861.53	1,908.06
2425	1,605.19	1,645.32	1,686.46	1,728.62	1,771.83	1,816.13	1,861.53	1,908.06	1,955.77
2426	1,645.32	1,686.46	1,728.62	1,771.83	1,816.13	1,861.53	1,908.06	1,955.77	2,004.66
2427	1,686.46	1,728.62	1,771.83	1,816.13	1,861.53	1,908.06	1,955.77	2,004.66	2,054.78
2428	1,728.62	1,771.83	1,816.13	1,861.53	1,908.06	1,955.77	2,004.66	2,054.78	2,106.15
2429	1,771.83	1,816.13	1,861.53	1,908.06	1,955.77	2,004.66	2,054.78	2,106.15	2,158.81
2430	1,816.13	1,861.53	1,908.06	1,955.77	2,004.66	2,054.78	2,106.15	2,158.81	2,212.78
2431	1,861.53	1,908.06	1,955.77	2,004.66	2,054.78	2,106.15	2,158.81	2,212.78	2,268.10
2432	1,908.06	1,955.77	2,004.66	2,054.78	2,106.15	2,158.81	2,212.78	2,268.10	2,324.80

MONTHLY	1	2	3	4	5	6	7	8	9
2419	3,010.53	3,085.78	3,162.93	3,242.01	3,323.05	3,406.14	3,491.29	3,578.57	3,668.05
2420	3,085.78	3,162.93	3,242.01	3,323.05	3,406.14	3,491.29	3,578.57	3,668.05	3,759.75
2421	3,162.93	3,242.01	3,323.05	3,406.14	3,491.29	3,578.57	3,668.05	3,759.75	3,853.73
2422	3,242.01	3,323.05	3,406.14	3,491.29	3,578.57	3,668.05	3,759.75	3,853.73	3,950.08
2423	3,323.05	3,406.14	3,491.29	3,578.57	3,668.05	3,759.75	3,853.73	3,950.08	4,048.83
2424	3,406.14	3,491.29	3,578.57	3,668.05	3,759.75	3,853.73	3,950.08	4,048.83	4,150.03
2425	3,491.29	3,578.57	3,668.05	3,759.75	3,853.73	3,950.08	4,048.83	4,150.03	4,253.80
2426	3,578.57	3,668.05	3,759.75	3,853.73	3,950.08	4,048.83	4,150.03	4,253.80	4,360.14
2427	3,668.05	3,759.75	3,853.73	3,950.08	4,048.83	4,150.03	4,253.80	4,360.14	4,469.15
2428	3,759.75	3,853.73	3,950.08	4,048.83	4,150.03	4,253.80	4,360.14	4,469.15	4,580.88
2429	3,853.73	3,950.08	4,048.83	4,150.03	4,253.80	4,360.14	4,469.15	4,580.88	4,695.41
2430	3,950.08	4,048.83	4,150.03	4,253.80	4,360.14	4,469.15	4,580.88	4,695.41	4,812.80
2431	4,048.83	4,150.03	4,253.80	4,360.14	4,469.15	4,580.88	4,695.41	4,812.80	4,933.12
2432	4,150.03	4,253.80	4,360.14	4,469.15	4,580.88	4,695.41	4,812.80	4,933.12	5,056.44

Exhibit "B"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 02-03
Effective June 24, 2003

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED
HOURLY

Range	1	2	3	4	5	6	7	8	9
2433	24.4471	25.0583	25.6848	26.3269	26.9851	27.6597	28.3512	29.0600	29.7865
2434	25.0583	25.6848	26.3269	26.9851	27.6597	28.3512	29.0600	29.7865	30.5312
2435	25.6848	26.3269	26.9851	27.6597	28.3512	29.0600	29.7865	30.5312	31.2945
2436	26.3269	26.9851	27.6597	28.3512	29.0600	29.7865	30.5312	31.2945	32.0769
2437	26.9851	27.6597	28.3512	29.0600	29.7865	30.5312	31.2945	32.0769	32.8788
2438	27.6597	28.3512	29.0600	29.7865	30.5312	31.2945	32.0769	32.8788	33.7008
2439	28.3512	29.0600	29.7865	30.5312	31.2945	32.0769	32.8788	33.7008	34.5433
2440	29.0600	29.7865	30.5312	31.2945	32.0769	32.8788	33.7008	34.5433	35.4069
2441	29.7865	30.5312	31.2945	32.0769	32.8788	33.7008	34.5433	35.4069	36.2921
2442	30.5312	31.2945	32.0769	32.8788	33.7008	34.5433	35.4069	36.2921	37.1994
2443	31.2945	32.0769	32.8788	33.7008	34.5433	35.4069	36.2921	37.1994	38.1294
2444	32.0769	32.8788	33.7008	34.5433	35.4069	36.2921	37.1994	38.1294	39.0826
2445	32.8788	33.7008	34.5433	35.4069	36.2921	37.1994	38.1294	39.0826	40.0597
2446	33.7008	34.5433	35.4069	36.2921	37.1994	38.1294	39.0826	40.0597	41.0612
BIWEEKLY									
2433	1,955.77	2,004.66	2,054.78	2,106.15	2,158.81	2,212.78	2,268.10	2,324.80	2,382.92
2434	2,004.66	2,054.78	2,106.15	2,158.81	2,212.78	2,268.10	2,324.80	2,382.92	2,442.50
2435	2,054.78	2,106.15	2,158.81	2,212.78	2,268.10	2,324.80	2,382.92	2,442.50	2,503.56
2436	2,106.15	2,158.81	2,212.78	2,268.10	2,324.80	2,382.92	2,442.50	2,503.56	2,566.15
2437	2,158.81	2,212.78	2,268.10	2,324.80	2,382.92	2,442.50	2,503.56	2,566.15	2,630.30
2438	2,212.78	2,268.10	2,324.80	2,382.92	2,442.50	2,503.56	2,566.15	2,630.30	2,696.06
2439	2,268.10	2,324.80	2,382.92	2,442.50	2,503.56	2,566.15	2,630.30	2,696.06	2,763.46
2440	2,324.80	2,382.92	2,442.50	2,503.56	2,566.15	2,630.30	2,696.06	2,763.46	2,832.55
2441	2,382.92	2,442.50	2,503.56	2,566.15	2,630.30	2,696.06	2,763.46	2,832.55	2,903.37
2442	2,442.50	2,503.56	2,566.15	2,630.30	2,696.06	2,763.46	2,832.55	2,903.37	2,975.95
2443	2,503.56	2,566.15	2,630.30	2,696.06	2,763.46	2,832.55	2,903.37	2,975.95	3,050.35
2444	2,566.15	2,630.30	2,696.06	2,763.46	2,832.55	2,903.37	2,975.95	3,050.35	3,126.61
2445	2,630.30	2,696.06	2,763.46	2,832.55	2,903.37	2,975.95	3,050.35	3,126.61	3,204.78
2446	2,696.06	2,763.46	2,832.55	2,903.37	2,975.95	3,050.35	3,126.61	3,204.78	3,284.90
MONTHLY									
2433	4,253.80	4,360.14	4,469.15	4,580.88	4,695.41	4,812.80	4,933.12	5,056.44	5,182.85
2434	4,360.14	4,469.15	4,580.88	4,695.41	4,812.80	4,933.12	5,056.44	5,182.85	5,312.44
2435	4,469.15	4,580.88	4,695.41	4,812.80	4,933.12	5,056.44	5,182.85	5,312.44	5,445.24
2436	4,580.88	4,695.41	4,812.80	4,933.12	5,056.44	5,182.85	5,312.44	5,445.24	5,581.38
2437	4,695.41	4,812.80	4,933.12	5,056.44	5,182.85	5,312.44	5,445.24	5,581.38	5,720.90
2438	4,812.80	4,933.12	5,056.44	5,182.85	5,312.44	5,445.24	5,581.38	5,720.90	5,863.93
2439	4,933.12	5,056.44	5,182.85	5,312.44	5,445.24	5,581.38	5,720.90	5,863.93	6,010.53
2440	5,056.44	5,182.85	5,312.44	5,445.24	5,581.38	5,720.90	5,863.93	6,010.53	6,160.80
2441	5,182.85	5,312.44	5,445.24	5,581.38	5,720.90	5,863.93	6,010.53	6,160.80	6,314.83
2442	5,312.44	5,445.24	5,581.38	5,720.90	5,863.93	6,010.53	6,160.80	6,314.83	6,472.69
2443	5,445.24	5,581.38	5,720.90	5,863.93	6,010.53	6,160.80	6,314.83	6,472.69	6,634.51
2444	5,581.38	5,720.90	5,863.93	6,010.53	6,160.80	6,314.83	6,472.69	6,634.51	6,800.38
2445	5,720.90	5,863.93	6,010.53	6,160.80	6,314.83	6,472.69	6,634.51	6,800.38	6,970.40
2446	5,863.93	6,010.53	6,160.80	6,314.83	6,472.69	6,634.51	6,800.38	6,970.40	7,144.66

Exhibit "B"

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 02-03
Effective June 24, 2003

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

4.00%									
ANNUAL	1	2	3	4	5	6	7	8	9
2447	34,543.33	35,406.9	36,292.1	37,199.4	38,129.4	39,082.6	40,059.7	41,061.2	42,087.7
2448	35,406.9	36,292.1	37,199.4	38,129.4	39,082.6	40,059.7	41,061.2	42,087.7	43,139.9
2449	36,292.1	37,199.4	38,129.4	39,082.6	40,059.7	41,061.2	42,087.7	43,139.9	44,218.4
2450	37,199.4	38,129.4	39,082.6	40,059.7	41,061.2	42,087.7	43,139.9	44,218.4	45,323.9
2451	38,129.4	39,082.6	40,059.7	41,061.2	42,087.7	43,139.9	44,218.4	45,323.9	46,457.0
2452	39,082.6	40,059.7	41,061.2	42,087.7	43,139.9	44,218.4	45,323.9	46,457.0	47,618.4
2453	40,059.7	41,061.2	42,087.7	43,139.9	44,218.4	45,323.9	46,457.0	47,618.4	48,808.9
2454	41,061.2	42,087.7	43,139.9	44,218.4	45,323.9	46,457.0	47,618.4	48,808.9	50,029.1
2455	42,087.7	43,139.9	44,218.4	45,323.9	46,457.0	47,618.4	48,808.9	50,029.1	51,279.8
2456	43,139.9	44,218.4	45,323.9	46,457.0	47,618.4	48,808.9	50,029.1	51,279.8	52,561.8
2457	44,218.4	45,323.9	46,457.0	47,618.4	48,808.9	50,029.1	51,279.8	52,561.8	53,875.8
2458	45,323.9	46,457.0	47,618.4	48,808.9	50,029.1	51,279.8	52,561.8	53,875.8	55,222.7
2459	46,457.0	47,618.4	48,808.9	50,029.1	51,279.8	52,561.8	53,875.8	55,222.7	56,603.3
2460	47,618.4	48,808.9	50,029.1	51,279.8	52,561.8	53,875.8	55,222.7	56,603.3	58,018.4
BIWEEKLY	1	2	3	4	5	6	7	8	9
2447	2,763.46	2,832.55	2,903.37	2,975.95	3,050.35	3,126.61	3,204.78	3,284.90	3,367.02
2448	2,832.55	2,903.37	2,975.95	3,050.35	3,126.61	3,204.78	3,284.90	3,367.02	3,451.19
2449	2,903.37	2,975.95	3,050.35	3,126.61	3,204.78	3,284.90	3,367.02	3,451.19	3,537.47
2450	2,975.95	3,050.35	3,126.61	3,204.78	3,284.90	3,367.02	3,451.19	3,537.47	3,625.91
2451	3,050.35	3,126.61	3,204.78	3,284.90	3,367.02	3,451.19	3,537.47	3,625.91	3,716.56
2452	3,126.61	3,204.78	3,284.90	3,367.02	3,451.19	3,537.47	3,625.91	3,716.56	3,809.47
2453	3,204.78	3,284.90	3,367.02	3,451.19	3,537.47	3,625.91	3,716.56	3,809.47	3,904.71
2454	3,284.90	3,367.02	3,451.19	3,537.47	3,625.91	3,716.56	3,809.47	3,904.71	4,002.33
2455	3,367.02	3,451.19	3,537.47	3,625.91	3,716.56	3,809.47	3,904.71	4,002.33	4,102.38
2456	3,451.19	3,537.47	3,625.91	3,716.56	3,809.47	3,904.71	4,002.33	4,102.38	4,204.94
2457	3,537.47	3,625.91	3,716.56	3,809.47	3,904.71	4,002.33	4,102.38	4,204.94	4,310.06
2458	3,625.91	3,716.56	3,809.47	3,904.71	4,002.33	4,102.38	4,204.94	4,310.06	4,417.82
2459	3,716.56	3,809.47	3,904.71	4,002.33	4,102.38	4,204.94	4,310.06	4,417.82	4,528.26
2460	3,809.47	3,904.71	4,002.33	4,102.38	4,204.94	4,310.06	4,417.82	4,528.26	4,641.47
MONTHLY	1	2	3	4	5	6	7	8	9
2447	6,010.53	6,160.80	6,314.83	6,472.69	6,634.51	6,800.38	6,970.40	7,144.66	7,323.27
2448	6,160.80	6,314.83	6,472.69	6,634.51	6,800.38	6,970.40	7,144.66	7,323.27	7,506.34
2449	6,314.83	6,472.69	6,634.51	6,800.38	6,970.40	7,144.66	7,323.27	7,506.34	7,694.00
2450	6,472.69	6,634.51	6,800.38	6,970.40	7,144.66	7,323.27	7,506.34	7,694.00	7,886.35
2451	6,634.51	6,800.38	6,970.40	7,144.66	7,323.27	7,506.34	7,694.00	7,886.35	8,083.52
2452	6,800.38	6,970.40	7,144.66	7,323.27	7,506.34	7,694.00	7,886.35	8,083.52	8,285.60
2453	6,970.40	7,144.66	7,323.27	7,506.34	7,694.00	7,886.35	8,083.52	8,285.60	8,492.74
2454	7,144.66	7,323.27	7,506.34	7,694.00	7,886.35	8,083.52	8,285.60	8,492.74	8,705.07
2455	7,323.27	7,506.34	7,694.00	7,886.35	8,083.52	8,285.60	8,492.74	8,705.07	8,922.68
2456	7,506.34	7,694.00	7,886.35	8,083.52	8,285.60	8,492.74	8,705.07	8,922.68	9,145.74
2457	7,694.00	7,886.35	8,083.52	8,285.60	8,492.74	8,705.07	8,922.68	9,145.74	9,374.38
2458	7,886.35	8,083.52	8,285.60	8,492.74	8,705.07	8,922.68	9,145.74	9,374.38	9,608.76
2459	8,083.52	8,285.60	8,492.74	8,705.07	8,922.68	9,145.74	9,374.38	9,608.76	9,848.97
2460	8,285.60	8,492.74	8,705.07	8,922.68	9,145.74	9,374.38	9,608.76	9,848.97	10,095.20

Exhibit "B"

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-332**

A RESOLUTION RECOGNIZING “JULY IS RECREATION AND PARKS MONTH”

WHEREAS, July is the month nationwide that kicks off the summer season. Whether playing sports, visiting our local parks, participating in recreation programs or just spending time outdoors, July is a great time for families and friends to enjoy all of the park and recreation amenities Modesto has to offer, and

WHEREAS, that is why the Modesto City Council has joined forces with the National Recreation and Park Association, the California Park and Recreation Society and cities nationwide to designate July as “Recreation and Parks Month”, and

WHEREAS, the National Recreation and Park Association, the California Park and Recreation Society and City of Modesto are creating community and enhancing neighborhoods through people, parks, programs and facilities, and

WHEREAS, parks and recreation activities and leisure experiences in Modesto provide opportunities for young people to live, grow and develop into contributing members of society, and

WHEREAS, parks and recreation in Modesto creates lifelines and continues life experiences for older members of our community, and

WHEREAS, parks and recreation generate opportunities for residents of Modesto to come together and experience a sense of community through fun recreational pursuits, and

WHEREAS, park and recreation agencies provide outlets for physical activities, socialization and stress-reducing experiences, and

WHEREAS, parks, playgrounds, ball fields, non-motorized trails, open spaces, community and cultural events, and historic sites make a community attractive and a desirable place to live, work, play and visit and contribute to Modesto’s ongoing economic vitality, and

WHEREAS, parks, greenways and open spaces provide a welcome respite from our fast-paced, high-tech lifestyles while protecting and preserving our natural environment, and

WHEREAS, parks and recreation agencies touch the lives of individuals, families, groups and the entire community, which positively impacts upon the social, economic, health and environmental quality of our community,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby encourages all residents to enjoy Modesto's parks and recreation amenities by participating in their choice of pleasurable activities to experience refreshment from their leisure time.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby recognizes July as "Recreation and Parks Month."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2001, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-333

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CHARLES CHITURAS FROM THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, Charles Chituras was appointed a member of the Citizens Housing & Community Development Committee on October 17, 2000, and

WHEREAS, Charles Chituras has tendered his resignation from the aforementioned committee, and

WHEREAS, Charles Chituras 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 Charles Chituras 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 Charles Chituras 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 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

BY:


MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO.2003-334**

**RESOLUTION APPROVING PROVIDING BUS SERVICE ON MODESTO
AREA EXPRESS (MAX) ROUTE 28 TO THE NEIGHBORS IN HEALTH FOR A
HEALTHCARE CLINIC TO BE HELD ON SUNDAY, AUGUST 24, 2003.**

WHEREAS, the Neighbors in Health community group is holding a healthcare clinic focusing on children who are not covered by health insurance, and

WHEREAS, many individuals who would benefit from the clinic are dependent upon public transit for transportation to attend the event, and

WHEREAS, the event is being held on Sunday, August 24, 2003, at a location not presently served by Modesto Area Express (MAX) on Sundays, and

WHEREAS, the Neighbors in Health community group requested that bus service be provided to enable potential beneficiaries of the program to attend, and

WHEREAS, the Economic Development Committee met on June 9, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated June 16, 2003 , from the Engineering and Transportation Director, City staff recommended to the Council approval of the provision of bus service to the event at a cost of approximately \$350.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bus service on Modesto Area Express Route 28 to the Neighbors in Health for a healthcare clinic to be held on Sunday, August 24, 2003 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-335**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE JAYHAWK ESTATES
SUBDIVISION, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF
COMPLETION AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, IOAN MURESAN and IOAN PASCAN, are the subdividers of the Jayhawk Estates Subdivision, and

WHEREAS, IOAN MURESAN and IOAN PASCAN, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of \$69,330.49 and \$34,665.25, respectively, and

WHEREAS, IOAN MURESAN and IOAN PASCAN, have filed a warranty bond in the amount of \$6,933.05 to guarantee improvements in the Jayhawk Estates Subdivision, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the Jayhawk Estates Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$69,330.49 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 \$34,665.25 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 improvements in the amount of \$6,933.05 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 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Alison Barratt-Green
ALISON BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-336**

A RESOLUTION AWARDING A BID TO SELECTRON TECHNOLOGIES OF PORTLAND, OREGON IN THE AMOUNT OF \$81,497.63. FOR AN INTERACTIVE VOICE RESPONSE (IVR) SYSTEM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT BETWEEN THE CITY OF MODESTO AND SELECTRON TECHNOLOGIES FOR AN INTERACTIVE VOICE RESPONSE SYSTEM CONSISTING OF A PROFESSIONAL SERVICES AGREEMENT, SOFTWARE LICENSE AGREEMENT AND SUPPORT AND MAINTENANCE AGREEMENT.

WHEREAS, the Finance Department-Customer Service Division has requested the purchase of a Interactive Voice Response (IVR) System for utility billing, and

WHEREAS, Resolution 2002-606 authorized the Purchasing Supervisor to solicit Request for Proposals for an Interactive Voice Response System, and

WHEREAS, an IVR System is a user friendly system that will allow any caller with a touch tone phone to access and retrieve automated account information via electronic mail or fax 24 hours a day, 7 days a week upon entering his account number, and

WHEREAS, information such as the current balance and the date of last payment can be retrieved in both English and Spanish, and

WHEREAS, other IVR options include paying by credit card, with the payment being applied immediately to the account with complete card verification and system audit reports, and

WHEREAS, customers who need additional assistance can be routed to voice information messages explaining payment procedures and outage reporting, or transferred directly to a customer service agent during support hours, and

WHEREAS, primary services administered by Customer Service include the utility billing for water, sewer, garbage, and storm drainage fees, and

WHEREAS, Customer Service averages 340 calls daily during business hours of 7:30 A.M. to 5:00 P.M., and

WHEREAS, currently calls are routed through a NEC rotation hunt group that continues to rotate until it finds an open telephone line, and customers remain on hold and receive messages to wait for the next available customer service representative until a telephone line becomes available, and

WHEREAS, the Customer Services Division receives approximately 30 requests per day from citizens who want to pay their utility bills by telephone, and

WHEREAS, the chosen IVR System will also have the capability of future expansion to other City of Modesto applications including but not limited to, Building Permits, Business License, and Parking Citations, and

WHEREAS, IVR benefits to the City of Modesto include a reduction in the number of customer calls for account status, payment extensions by telephone and a saving of staff time spent disconnecting and reconnecting services due to the availability of making payments via telephone, and

WHEREAS, benefits to the citizens include 24/7 accessibility of account information in both English and Spanish, reduction of wait time on the telephone, and it may save a trip to the Customer Service Division to make the payment at the counter, and

WHEREAS, additional benefits are, payment extensions by telephone, and the convenience of credit card payment by telephone, perhaps avoiding disconnection of service, and WHEREAS, by soliciting competitive bids for Interactive Voice Response

(IVR) System, the Finance Department, Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures,

WHEREAS, the Finance Committee recommended the purchase of the IVR System at its May 28, 2003, meeting.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby awards the bid for an Interactive Voice Response (IVR) System to Selectron Technologies of Portland, Oregon for \$81,497.63.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said contracts between City of Modesto and Selectron Technologies of Portland, Oregon in the amount of \$81,497.63 for an interactive voice response system.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:
BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-337**

A RESOLUTION ACCEPTING A PROPOSAL FROM EDWA, INC. TO PROVIDE A PRECISE PLAN, ENVIRONMENTAL DOCUMENTS AND CONSTRUCTION DOCUMENTS FOR THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK; AUTHORIZING STAFF TO NEGOTIATE A CONTRACT WITH EDWA TO COMPLETE THE PRECISE PLAN AND ENVIRONMENTAL DOCUMENTS AT A COST NOT TO EXCEED \$350,000 AND TO RETURN TO COUNCIL AT A LATER DATE FOR CONTRACT APPROVAL; AND AUTHORIZING STAFF TO NEGOTIATE A CONTRACT WITH EDWA TO COMPLETE FUTURE CONSTRUCTION DOCUMENTS FOR THE GATEWAY PARCEL AS FUNDING BECOMES AVAILABLE AND TO RETURN TO COUNCIL AT A LATER DATE FOR SAID CONTRACT APPROVAL.

WHEREAS, the Tuolumne River Regional Park (TRRP) Master Plan and Master Environmental Impact Report (MEIR) were developed over a two-year period and were approved and certified by the agencies of the TRRP Joint Powers Authority on December 12, 2001, and

WHEREAS, the plan outlined several areas in the Regional Park system that required precise plans to be created with supporting environmental and construction documentation, and

WHEREAS, the approval of the TRRP Master Plan precipitated the development of a Request for Proposals (RFP) process from firms which would be selected to provide these design, environmental and engineering services, and

WHEREAS, the first phase recommended for development in the TRRP Master Plan is the Gateway Parcel, since this parcel is positioned in a critical area of the regional park, and

WHEREAS, Requests for Proposals to complete a precise plan for the Gateway Parcel, with supporting environmental documents and three phases of construction

documents were sent out on January 30, 2003, to 13 different landscape architecture firms, and five firms submitted proposals by the due date of March 4, 2003 and

WHEREAS, two firms were selected for final interviews, and

WHEREAS, based on the evaluation process, the TRRP Citizens Advisory Committee, the Gateway Design Selection Committee and TRRP Commission recommend that the City Council: accept the proposal from EDAW, Inc. to provide a Precise Plan, Environmental Documents and Construction Documents for the Gateway Parcel; authorize staff to negotiate a contract with EDAW, Inc. to complete the Precise Plan and Environmental Documents at a cost not to exceed \$350,000, pending adoption of the FY 03-04 TRRP Capital improvement Plan budget; and, authorize staff to negotiate a contract(s) with EDAW, Inc. for preparation of construction documents for Phases I, II, and III as funds become available, and

WHEREAS, the Tuolumne River Regional Park Commission met on May 12, 2003, and supported the recommendation that the City Council: accept the proposal from EDAW, Inc. to provide a Precise Plan, Environmental Documents and Construction Documents for the Gateway Parcel; authorize staff to negotiate a contract with EDAW, Inc. to complete the Precise Plan and Environmental Documents at a cost not to exceed \$350,000, pending adoption of the FY 03-04 TRRP Capital improvement Plan budget; and, authorize staff to negotiate a contract(s) with EDAW, Inc. for preparation of construction documents for Phases I, II, and III as funds become available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the proposal from EDAW, Inc. to provide a Precise Plan, Environmental Documents and Construction Documents for the Gateway Parcel.

BE IT FURTHER RESOLVED that the Council authorizes staff to negotiate a contract with EDAW, Inc. to complete the Precise Plan and Environmental Documents at a cost not to exceed \$350,000, pending adoption of the FY 03-04 TRRP Capital improvement Plan budget, and to return to Council at a later date for contract approval.

BE IT FURTHER RESOLVED that the Council authorizes staff to negotiate a contract(s) with EDAW, Inc. for preparation of construction documents for Phases I, II, and III as funds become available and to return to Council at a later date for said contract approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-338**

A RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUESTS FOR PROPOSALS (RFPs) FOR THE DEVELOPMENT OF “QUALITY HOUSING FOR WORKING CITIZENS” USING HOME FUNDS

WHEREAS, City staff recommends soliciting proposals for the development of new construction of multi-family housing, rehabilitation of existing market rate housing to be converted to affordable units for low- and moderate-income households or the development of new entry-level single-family units, and

WHEREAS, the project must be located in the City limits, and it is desirable that the City’s financial assistance be used to leverage other funding sources, and

WHEREAS, bonus points will be given to new construction projects and those projects proposing multi-family housing, due to the tremendous need in this area, and

WHEREAS, a total of approximately \$1,536,624 of assistance is available in FY 03-04, consisting of \$1,154,720 in HOME entitlement funds, \$312,825 in Community Housing Development Organization (CHDO) set-aside funds, and \$69,079 in CHDO operating expense, and

WHEREAS, the federal HOME program provides these funds, therefore, all funding recipients will be governed by HOME regulations, and

WHEREAS, funding may also be available in future years for projects being completed in phases, however, future-funding commitments will not be made until such funds are actually received, and

WHEREAS, projects awarded funding are expected to enter into a development agreement with the City prior to January 2004 and be completed by January 2006, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on June 3, 2003 and recommended this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to solicit Requests for Proposals (RFP's) for the development and construction of multi-family housing, rehabilitation and conversion of Market Rate units to affordable units or the development of new entry-level single-family units, which will increase the affordable housing stock within the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-339**

A RESOLUTION APPROVING THE APPLICATION FOR \$1,140,000 IN GRANT FUNDS FOR THE DEVELOPMENT OF THE TUOLUMNE RIVER REGIONAL PARK UNDER THE RIVER PARKWAYS GRANT PROGRAM OF THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 AND AUTHORIZING THE CITY MANAGER TO SIGN THE APPLICATION DOCUMENTS.

WHEREAS, the Legislature and Governor of the State of California have provided funds for the River Parkways grant program of the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002, and

WHEREAS, the State Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said adopted procedures established by the State Resources Agency require a resolution certifying the approval of applications by the applicant's governing board before submission of said applications to the State, and

WHEREAS, the applicant will enter into an agreement with the State of California to carry out the project, 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 that the Council hereby:

1. Approves the filing of an application for the Tuolumne River Regional Park in the amount of \$1,140,000, and
2. Certifies that applicant understands the assurances and certification in the application form, and

3. Certifies that applicant has or will have sufficient funds to operate and maintain the project, and
4. Certifies that applicant has reviewed and understands the Special and General Provisions contained in the Sample Project Agreement shown in the Procedural Guide, and
5. Appoints the City Manager as agent to conduct all negotiations and 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 aforementioned project.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to sign the application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-340**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH
MODESTO SISTER CITIES INTERNATIONAL TO DECREASE FUNDING
FOR FISCAL YEAR 2003-04 BY 10%, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AMENDMENT.**

WHEREAS, in 1996, the City of Modesto entered into an agreement with Modesto Sister Cities International (MSCI) for MSCI to administer Modesto's Sister City program, and

WHEREAS, the City agreed to compensate MSCI \$31,600 annually to administer the Sister City program, and

WHEREAS, said annual compensation remained the same until FY 02-03, when MSCI agreed to accept a 5% budget cut due to budgetary constraints, and

WHEREAS, at the budget hearing held on June 24th, the City Council recommended a 10% budget reduction to MSCI for the Fiscal Year 2003-04, and

WHEREAS, MSCI agreed to a 10% decrease and will accept payment in the amount of \$28,440 for Fiscal Year 2003-03, and

WHEREAS, a 10% reduction in funding to MSCI was included as part of the adoption of the Fiscal Year 2003-04 budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to Agreement with Modesto Sister Cities International to decrease funding by 10% from \$31,600 annually to \$28,440 for Fiscal Year 2003-04.

BE IT FURTHER RESOLVED that the City Manager 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 1st day of July by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 341**

A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY OF MODESTO AND PACIFICARE, KAISER PERMANENTE, AMERICAN SPECIALTY HEALTH PLANS (chiropractic coverage) AND PACIFICARE BEHAVIORAL HEALTH; CONTINUING DENTAL AND VISION COVERAGE THROUGH THE CITY'S SELF-INSURED PROGRAM AND AUTHORIZING THE PERSONNEL DIRECTOR TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS AND AUTHORIZE 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 2004, and

WHEREAS, the rates charged by health insurance carriers have increased by 24% for Kaiser and 2.6% for PacifiCare, and

WHEREAS, mental health and dental rates are remaining the same, and

WHEREAS, chiropractic rates are increasing by 5.6%, and the vision rates by 8%, and

WHEREAS, the EBC voted to continue to offer PacifiCare as an alternate to Kaiser, and

WHEREAS, both health plans agreed to continue to offer Preferred Provider Option (PPO) to all employees, and

WHEREAS, the EBC agreed to change the health plan design by increasing the office visit co-pay from \$5 to \$10, and increasing the prescription drug co-pay from \$5 to \$10 for Kaiser and from \$5/\$10 (generic/brand) to \$5/\$15 for PacifiCare,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves execution of agreements with PacifiCare, and Kaiser Permanente, with changes in co-pays; and with 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 program as recommended by the Employee Benefits Committee.

BE IT FURTHER RESOLVED that the Personnel Director is hereby authorized to serve as the coordinator for the various plans and authorize the City Manager to execute all necessary agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D Milich
Michael D Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-342**

**A RESOLUTION 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. 2003-229 adopted on May 13, 2003, 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 2003-04 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 2003-04 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 2003-04 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 1st day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-343**

**A RESOLUTION 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. 2003-230, adopted on May 13, 2003, 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 2003-04 is \$100.50 per acre for commercial property and \$19.78 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 \$100.50 per acre for commercial property and \$19.78 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 2003-04 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 2003-04 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 1st day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-344**

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: PRECISE PLAN FOR AREA NO. 20(NW) AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE NORTHWEST CORNER OF FLOYD AND ROSELLE AVENUES IN THE VILLAGE ONE SPECIFIC PLAN AREA (NORA NARAGHI)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Nora Naraghi for a Precise Plan for Area No. 20(NW) of the Village One Specific Plan, property located at the northwest corner of Floyd and Roselle Avenues, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-45, 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

WHEREAS, the Planning Commission, by Resolution No. 2003-37, adopted on June 16, 2003, and City staff, by a report dated June 13, 2003, from the Community and Economic Development Department, recommended to the City Council approval of the Precise Plan for Area No. 20(NW) of the Village One Specific Plan as set forth in Resolution No. 2003-37, and recommended approval of an Amendment to Section 14-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located at the northwest corner 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 July 1, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-45, entitled "City of Modesto Initial Study Precise Plan No. 20 NW and Village Ranch Vesting Tentative Subdivision Map with Multi-Family Final Development Plan," for the proposed project, and the Council hereby makes the following findings:

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 Specific Plan Program EIR, as amended by the Village One Supplemental EIR (“Program EIR”) and no new environmental document or findings are required by CEQA.

2. The project will have no new effects which are not examined in the Program EIR and no new mitigation measures would be required.
3. There are no substantial changes proposed in the project which will require major revisions of the Program EIR.
4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Program EIR.
5. No new information, which was not known and could not have been known at the time the Program EIR was certified as complete, has become available.
6. There no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.
7. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

8. This Initial Study, Environmental Assessment No. EA/C&ED No. 2003-45, provides the substantial evidence to support the above findings 1 thru 7, above.

A copy of said Environmental Assessment No. EA/C&ED No. 2003-45, entitled "City of Modesto Initial Study Precise Plan No. 20 NW and Village Ranch Vesting Tentative Subdivision Map with Multi-Family Final Development Plan," 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 1st day of July, 2003, by Councilmember Jackman, 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:	Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"
INITIAL STUDY
EA/C&ED NO. 2003-45

City of Modesto
Initial Study

**Precise Plan No. 20 NW and
Village Ranch Vesting Tentative Subdivision Map with
Multi-Family Final Development Plan**

EA/C&ED 2003-45
May 27, 2003

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15182 of the CEQA Guidelines allows the approval of subsequent projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- A. 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 Program EIR and no new environmental document or findings are required by CEQA.
- B. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
- C. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR.
- D. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR.
- E. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.
- F. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

II. PROJECT DESCRIPTION

- A. Project title:
Precise Plan No. 20 NW and Village Ranch Vesting Tentative Subdivision Map with Multi-Family Final Development Plan
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Brad Wall, Community Development Department, (209) 577-5287
- D. Project Location:
The project is located at the northwest corner of Floyd and Roselle Avenues, within the City of Modesto.
- E. Project Sponsor: Nora Naraghi; P.O. Box 7, Escalon, CA 95320
- F. General Plan Designation: Village Residential (VR)
- G. Current Zoning: Specific Plan-Holding (SP-H) Zone
- H. Description of Proposed Project:
Precise plan and vesting tentative subdivision map in the Village One Specific Plan to create a 138-lot single-family subdivision on 30 acres, and 10 acres (248 units) of multi-family residential development.
- I. Surrounding land uses:
The project is bounded on the north and south by existing residential development. Undeveloped lands to the east and west are zoned by the Village One Specific Plan for residential development.
- J. Other public agencies whose approval is required: None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS

Following is an analysis of how the project is within the scope of the Village One Program EIR, as amended by the Supplemental EIR, and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

A. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

B. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

C. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity, and the project includes a masonry sound wall adjacent to Claus Road, as required by the Specific Plan. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

D. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR for residential development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

E. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

F. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

G. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this subdivision is consistent with the Village One Specific Plan in terms of land use, intensity and urban design, and includes landscaped setbacks along the surrounding streets, as required by the Specific Plan. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

H. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

I. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and includes the necessary storm drainage systems required by the Specific Plan. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

J. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and would not create any additional demand for public services that are in excess of those analyzed by the Village One EIR. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

K. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

L. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

M. Growth Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

- A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

- B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

V. MITIGATION MEASURES

Since the project is within the scope of the Village One Specific Plan Program EIR, as amended by the Supplemental EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

VI. CONCLUSIONS/ DETERMINATIONS OF FINDINGS

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 Program EIR and no new environmental document or findings are required by CEQA.
2. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
3. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
5. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

6. There are no specific features that are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.
7. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.
8. This initial study provides the substantial evidence to support the above findings.

Signature:

A handwritten signature in black ink, appearing to read "Brad Wall". The signature is written in a cursive, flowing style.

Brad Wall,
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-345**

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: PRECISE PLAN FOR AREA NO. 18 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE NORTHWEST CORNER OF FLOYD AVENUE AND LINCOLN OAK DRIVE IN THE VILLAGE ONE SPECIFIC PLAN AREA (NORA NARAGHI)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Nora Naraghi for a Precise Plan for Area No. 18 of the Village One Specific Plan, property located at the northwest corner of Floyd Avenue and Lincoln Oak Drive, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-46, 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

WHEREAS, the Planning Commission, by Resolution No. 2003- 38, adopted on June 16, 2003, and City staff, by a report dated June 13, 2003, from the Community and Economic Development Department, recommended to the City Council approval of the Precise Plan to Area No. 18 of the Village One Specific Plan as set forth in said Resolution No. 2003-38, and recommended approval of an Amendment to Section 14-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located at the northwest corner of Floyd Avenue and Lincoln Oak Drive, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on July 1, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-46, entitled "City of Modesto Initial Study Precise Plan No. 18 and Hacienda Del Sol Vesting Tentative Subdivision Map with Multi-Family Final Development Plan," for the proposed project, and the Council hereby makes the following findings:

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

Specific Plan Program EIR, as amended by the Village One Supplemental EIR (“Program EIR”) and no new environmental document or findings are required by CEQA.

2. The project will have no new effects which are not examined in the Program EIR and no new mitigation measures would be required.
3. There are no substantial changes proposed in the project which will require major revisions of the Program EIR.
4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Program EIR.
5. No new information, which was not known and could not have been known at the time the Program EIR was certified as complete, has become available.
6. There no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.
7. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.
8. This initial study, Environmental Assessment No. EA/C&ED No. 2003-46, provides the substantial evidence to support the above findings 1 through 7, above.

A copy of said Environmental Assessment No. EA/C&ED No. 2003-46, entitled "City of Modesto Initial Study Precise Plan No. 18 and Hacienda Del Sol Vesting Tentative Subdivision Map with Multi-Family Final Development Plan," 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 1st day of July, 2003, by Councilmember Jackman, 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: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

INITIAL STUDY

EA/C&ED NO. 2003-46

City of Modesto
Initial Study

Precise Plan No. 18 and
Hacienda Del Sol Vesting Tentative Subdivision Map with
Multi-Family Final Development Plan

EA/C&ED 2003-46
May 27, 2003

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15182 of the CEQA Guidelines allows the approval of subsequent projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- A. 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 Program EIR and no new environmental document or findings are required by CEQA.
- B. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
- C. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR.
- D. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR.
- E. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.
- F. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

II. PROJECT DESCRIPTION

- A. Project title:
Precise Plan No. 18 and Hacienda Del Sol Vesting Tentative Subdivision Map with Multi-Family Final Development Plan
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Brad Wall, Community Development Department, (209) 577-5287
- D. Project Location:
The project is located at the northwest corner of Floyd Avenue and Lincoln Oak Drive, within the City of Modesto.
- E. Project Sponsor: Nora Naraghi; P.O. Box 7, Escalon, CA 95320
- F. General Plan Designation: Village Residential (VR)
- G. Current Zoning: Specific Plan-Holding (SP-H) Zone
- H. Description of Proposed Project:
Precise plan and vesting tentative subdivision map in the Village One Specific Plan to create a 171-lot single-family subdivision on 40 acres, and 10 acres (248 units) of multi-family residential development.
- I. Surrounding land uses:
The project is bounded on the north, east and west by vacant lands designated for future residential development by the Village One Specific Plan, and to the south (across Floyd Avenue) by existing residential development.
- J. Other public agencies whose approval is required: None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS

Following is an analysis of how the project is within the scope of the Village One Program EIR, as modified by the Supplemental EIR, and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

A. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Village One Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

B. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

C. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity, and the project includes a masonry sound wall adjacent to Claus Road, as required by the Specific Plan. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

D. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR for residential development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

E. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

F. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

G. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this subdivision is consistent with the Village One Specific Plan in terms of land use, intensity and urban design, and includes landscaped setbacks along the surrounding streets, as required by the Specific Plan. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

H. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

I. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and includes the necessary storm drainage systems required by the Specific Plan. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

J. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and would not create any additional demand for public services that are in excess of those analyzed by the Village One EIR. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

K. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

L. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

M. Growth Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

- A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

- B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

V. MITIGATION MEASURES

Since the project is within the scope of the Village One Specific Plan Program EIR, as modified by the Supplemental EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

VI. CONCLUSIONS/DETERMINATIONS OF FINDINGS

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 Program EIR and no new environmental document or findings are required by CEQA.
2. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.
3. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
5. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

6. There are no specific features that are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.
7. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.
8. This initial study provides the substantial evidence to support the above findings.

Signature:

A handwritten signature in black ink, appearing to read "Brad Wall". The signature is written in a cursive, flowing style.

Brad Wall,
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-346**

A RESOLUTION FINDING THAT THE 2003 URBAN GROWTH REVIEW, (THE PROJECT) AS REQUIRED BY THE ADOPTED MODESTO URBAN AREA GENERAL PLAN, "COMMUNITY GROWTH STRATEGY" IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041)

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, Modesto Urban Area General Plan, Community Growth Strategy calls for the review of growth trends in the Modesto Urban Area on a periodic basis, and

WHEREAS, the last Urban Area Growth Policy Review was approved by the City Council on July 10, 2001, and

WHEREAS, the 2003 Urban Growth Policy Review contains a recommendation that a Measure M ballot measure be prepared for the Johansen, North Empire, Kiernan/Carver, CPDs and unincorporated infill areas, 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&ED2003-42 reviewed the 2003 Urban Growth Policy Review to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan 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,

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 2003 Urban Area Growth Policy Review, 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. 19990820) as being within the scope of the Master EIR report.
2. That the Project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures or alternatives that were not previously considered in the Master EIR 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. All certified mitigation measures identified in the Master EIR will apply citywide including this project as appropriate.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-42, provides the substantial evidence to support findings 1-5 noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman, Jackman

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

EXHIBIT A
Initial Study
EA/C&ED 2003-42

City of Modesto

Initial Study

**2003 Urban Area Growth Policy Review Measure "M" Ballot Measures:
Johansen, Empire North, Kiernan/Carver, and Infill Areas**

EA NO. C&ED 2003- 42

I. PURPOSE:

Finding of Conformance under City's General Plan Master EIR

The GPMEIR allows for limited environmental review of this proposed 2003 Urban Area Growth Review Measure "M" Ballot Measures. The original Master EIR was certified on August 15, 1995 (SCH #92052017), in conjunction with adoption of the Modesto Urban Area General Plan. The Final Master EIR Update (SCH # 1999082041) was certified by the Modesto City Council on March 4, 2003. The MEIR contains a detailed analysis and a comprehensive program of mitigation measures to address development within the Modesto General Plan Area.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not identified in the Final Master EIR (MEIR) for the General Plan and whether any new or additional mitigation measures or alternatives may be required. This Initial Study also provides documentation on whether the project is considered in the Master EIR as being within the scope of the General Plan analyzed by the Master EIR.

Master EIR Requires Focused EIRs for Development of Comprehensive Planning Districts

One or more of the Comprehensive Planning Districts (CPDs) that would be placed on the ballot for a Measure "M" vote may result in a future development proposal. For any CPDs proposed for development, the Master EIR/General Plan requires preparation and certification of a Focused EIR pursuant to CEQA Section 21158 prior to adoption of a comprehensive Plan (Specific Plan) for development. This detailed analysis can only be prepared when an actual project with a detailed land plan has been submitted for review and approval.

II. PROJECT DESCRIPTION:

- A. Project Title:
2003 Measure "M" Ballot Measure –Johansen, Empire North, Kiernan/Carver, and Infill Areas
- B. Lead Agency Name and Address:
City of Modesto, P.O. Box 642 Modesto, CA 95353

Initial Study
Growth Policy Ballot Measures
05/20/03

- C. Contact Person, address and phone number:
Patrick Kelly, 1010 Tenth Street, Modesto, CA 95353
(209) 577-5268
- D. Project Location:
The Modesto Urban Area
- E. Project Sponsor, address and phone number:
City of Modesto, P.O. Box 624, Modesto, CA 95353
- F. Modesto General Plan Designation:
Land Use Diagram of Modesto Urban Area General Plan
- G. Zoning:
City of Modesto Zoning Map
- H. Description of Proposed Project:

The (*project*) consists of proposed ballot measure(s) that could be placed on the November 2003 citywide Measure "M" Advisory vote election for extension of sewer service by the City Council. The project implements the General Plan Growth Policy for selection of areas for future development or annexation. The measures, described below, are based on the 2003 Urban Area Growth Policy Review process where property owners have expressed written interest in future development (Council may select any combination).

The City Council may select (approve) ballot measures that can proceed with development proposals. Implementation of the ballot measure would be a Subsequent Project to the General Plan Master EIR (MEIR) as described in Chapter II, of the MEIR. Implementing "devices" would include: Specific Plans (page II-7 MEIR) and Annexations (page II-2 MEIR). The MEIR requires a Focused EIR to be prepared for any Comprehensive Planning District (CPD) proposed for development. Annexations, or Reorganizations, pursuant to the Cortese Knox-Hertzberg Reorganization Act are required to bring any of the Infill areas proposed for a vote into the incorporated City of Modesto (page II-2 MEIR).

The proposed ballot measure would include one or more of the following Comprehensive Planning Districts (CPD's) located in the Planned Urbanizing Area of the City's General Plan:

1. Johansen CPD, (minus the annexed 109-acre Johansen High School area) 501 acres located north of Yosemite Boulevard, and east of Claus Road, west of Santa Fe RR & unincorporated Empire area (attached Exhibit A).

2. Empire North CPD, 174-acre portion of CPD located east of Santa Fe RR, west of Church Street, south of Dry Creek and north of the unincorporated Empire area (attached Exhibit A).
3. Kiernan/Carver CPD, 571-acre portion of CPD designated Village Residential by the Modesto Urban Area General Plan, located south of Kiernan Avenue, east of American Avenue, north of Bangs Avenue and west of Carver Road (attached Exhibit B).
6. Infill Areas, consisting of unincorporated islands within the City limits comprised of 2,408-acres, and remaining unincorporated areas in the Baseline Developed Area of the General Plan, which are developed or surrounded by development, excluding infill areas with a previous Measure M vote. (attached Exhibit C).

I. Surrounding Land Uses:
Unincorporated County.

J. Other Public agencies whose approval is required
none

II. **ANALYSIS OF CONFORMANCE WITH THE MASTER EIR:**

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. **Traffic and Circulation**

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional significant increase in traffic and circulation impacts, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR and thus would not adversely affect the roadway or intersection capacity of the City's circulation system beyond what was identified in the MEIR. Therefore, any potential adverse impacts on traffic and circulation were analyzed and mitigation provided by the GPMEIR.

Following the vote scheduled for November 2003, further separate Council actions are required in order for development or annexation of these areas to proceed. Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. The Existing Conditions, Impacts Analysis and

Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional degradation of air quality, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on loss of sensitive wildlife and plant habitat were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted.

Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional generation of noise, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts for generation of noise were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, the project will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional loss of productive agricultural land, not already identified in the

MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on loss of productive agricultural land were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. 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-4-12) are still valid.

E. Increased Demand for Water Supplies

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional increased demand for water supplies, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on increased demand for water supplies were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, 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.

F. Increased Demand for Sanitary Sewer Services

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional increased demand for sanitary services, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts for increased demand for sanitary sewer services were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, 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.

G. Loss of Sensitive Wildlife and Plant Habitat

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional disturbance of wildlife and plant habitat areas, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on loss of sensitive wildlife and plant habitat were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in the MEIR for Sensitive Wildlife and Plant Habitat, (pages V-7-1 through V-7-30) are, therefore, still valid.

H. Disturbance of Archaeological and Historic Sites

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not cause additional disturbance of archaeological and historic sites, not already identified in the MEIR. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on disturbance of archaeological and historic sites were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section

21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, the project would not disturb any new archaeological or historic sites not already analyzed in the General Plan MEIR. The Existing conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not change the size or configuration of drainage, flooding and water quality facilities, not already identified in the MEIR. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not addressed in the MEIR. Therefore, any potential adverse impacts on drainage, flooding and water quality were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are, therefore, still valid.

J. Increased Demand for Storm Drainage

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population or development beyond that identified in the MEIR that cause increased demand for storm drainage facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on Increased Demand for storm drainage were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are, therefore, still valid.

K. Increased Demand for Parks and Open Space

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population beyond that identified in the MEIR that would use parks or open space facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on Increased Demand for Parks and Open Space were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-11) are, therefore still valid.

L. Increased Demand for Schools

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population beyond that identified in the MEIR that would use school facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on Increased Demand for schools were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Thus 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.

M. Increased Demand for Police Services

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population beyond that identified in the MEIR that would require increased Police services or facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure

or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on Increased Demand for police services were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. 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.

N. Increased Demand for Fire Services

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population beyond that identified in the MEIR that would require increased Fire services or facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on Increased Demand for Fire services were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Impacts to annexation of Infill Areas would be addressed by an Initial Study/Mitigated Negative Declaration prepared pursuant to CEQA Section 21157.1 before a proposal is initiated. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through IV-14-9) are, therefore, still valid.

O. Generation of Solid Waste

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population beyond that identified in the MEIR that would result in increased generation of solid waste or related facilities. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on generation of solid waste and related services were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas

including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. Therefore, 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.

P. Generation of Hazardous Materials

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population or development beyond that identified in the MEIR that would result in increased generation of hazardous materials. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on generation of hazardous materials were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. 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-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population or development beyond that identified in the MEIR that would result in increased exposure to landslides and seismic activity. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on exposure to landslides and seismic activity were analyzed and mitigation provided by the GPMEIR.

Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158,

before the proposal is initiated. 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.

R. Energy

The proposal to place the CPDs and Infill Areas on the ballot "*project*" would not generate any additional population or development beyond that identified in the MEIR that would result in increased demand for energy. The ballot measures do not propose any changes to the gross acreage, land use designations, infrastructure, or circulation system of the General Plan analyzed by the MEIR. Therefore, any potential adverse impacts on increased demand for energy were analyzed and mitigation provided by the GPMEIR.

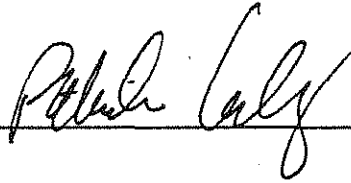
Detailed impacts of development of the CPDs would be identified through a Focused EIR prepared pursuant to CEQA Section 21158 when a development application/land plan is submitted. Subsequent projects within infill areas including annexations would be addressed by an Initial Study, which will determine whether they are "within the scope of the Master EIR" or whether a Mitigated Negative Declaration shall be prepared pursuant to CEQA Section 21157.1 or if a Focused EIR must be prepared pursuant to CEQA Section 21158, before the proposal is initiated. 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.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposal to place the CPDs and Infill Areas on the ballot "*project*" is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH# 1999082041).
- B. The proposal to place the CPDs and Infill Areas on the ballot "*project*" will have no new additional significant effect on the environment not identified in the Master EIR and no new or additional mitigation measures are required.
- C. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1).
- D. There are no specific features unique to the proposal to place the CPDs and Infill Areas on the ballot "*project*" that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply citywide including this project as appropriate.

- E. This Initial Study provides substantial evidence to support findings "A, B, C, and D" above.












Signature: _____

A handwritten signature in cursive script, appearing to read "Robert Caly", is written over a horizontal line.

City of Modesto

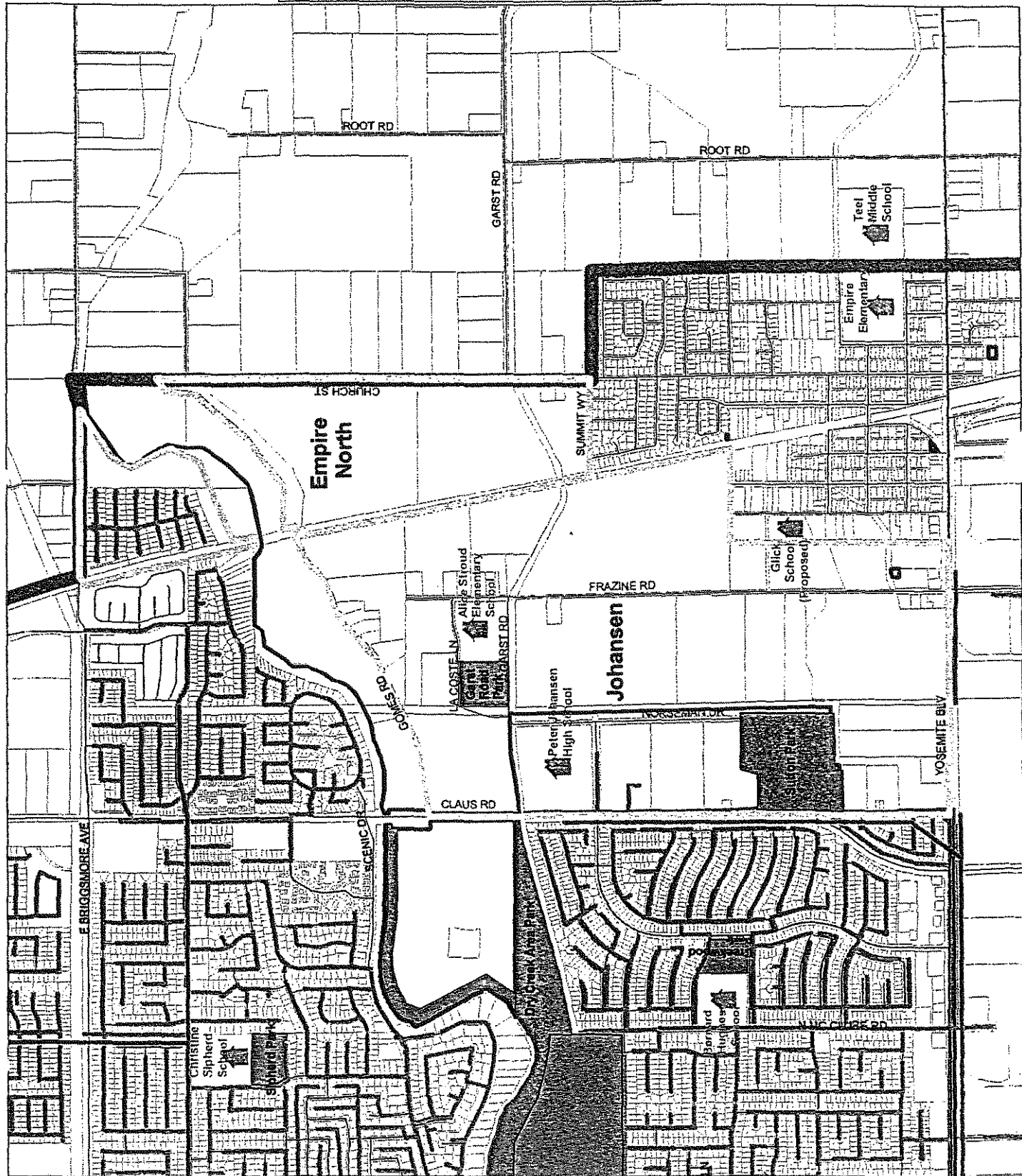
Johansen/
North Empire

Legend

-  CPD Boundaries
-  General Plan Boundary
-  Trunk Lines
-  Sewer Lines
-  Schools
-  Parcel Boundaries
-  Roads
-  City of Modesto
-  County
-  Undeveloped Parks
-  Developed Parks

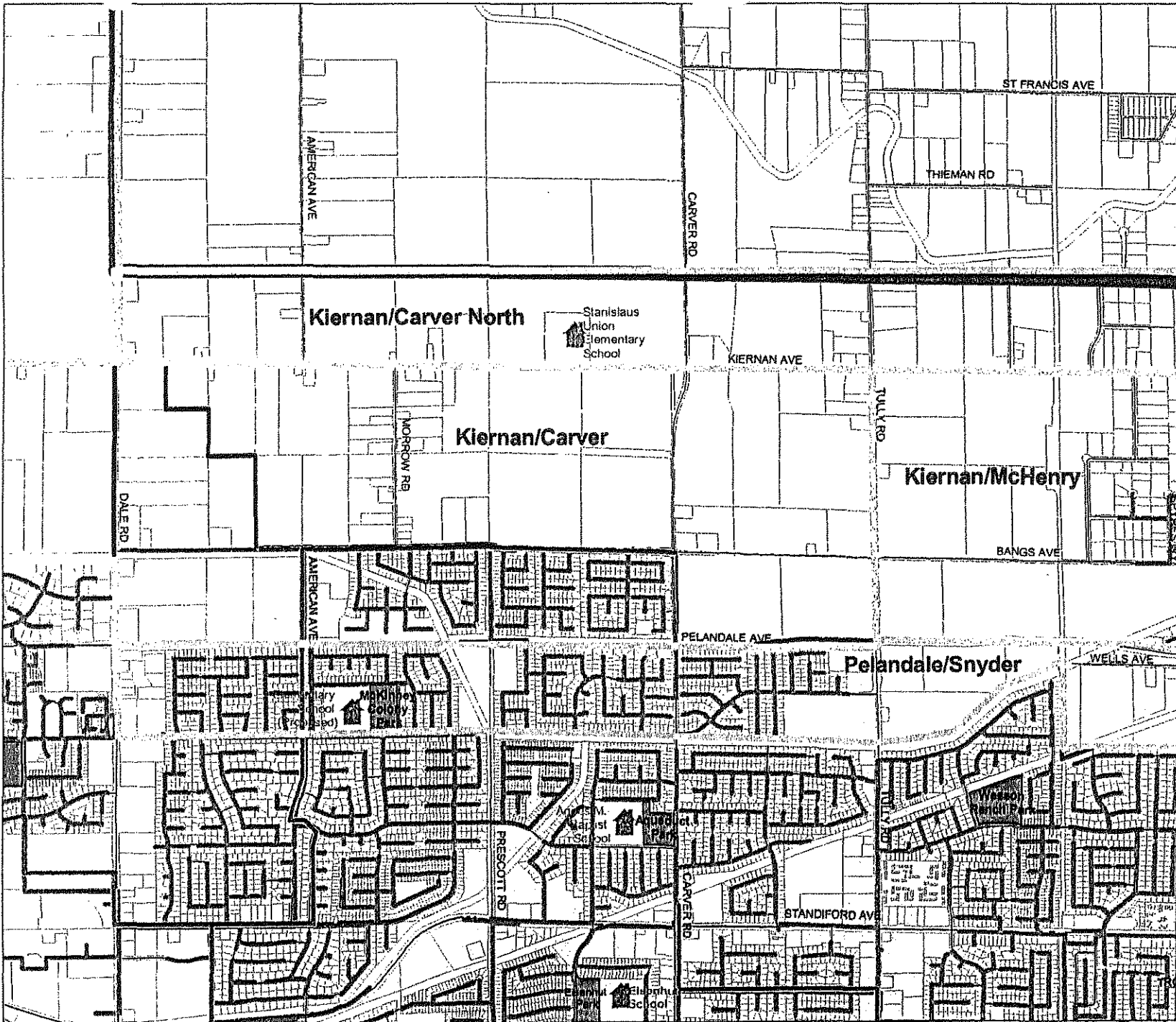


April 1, 2003



City of Modesto

Kiernan/Carver



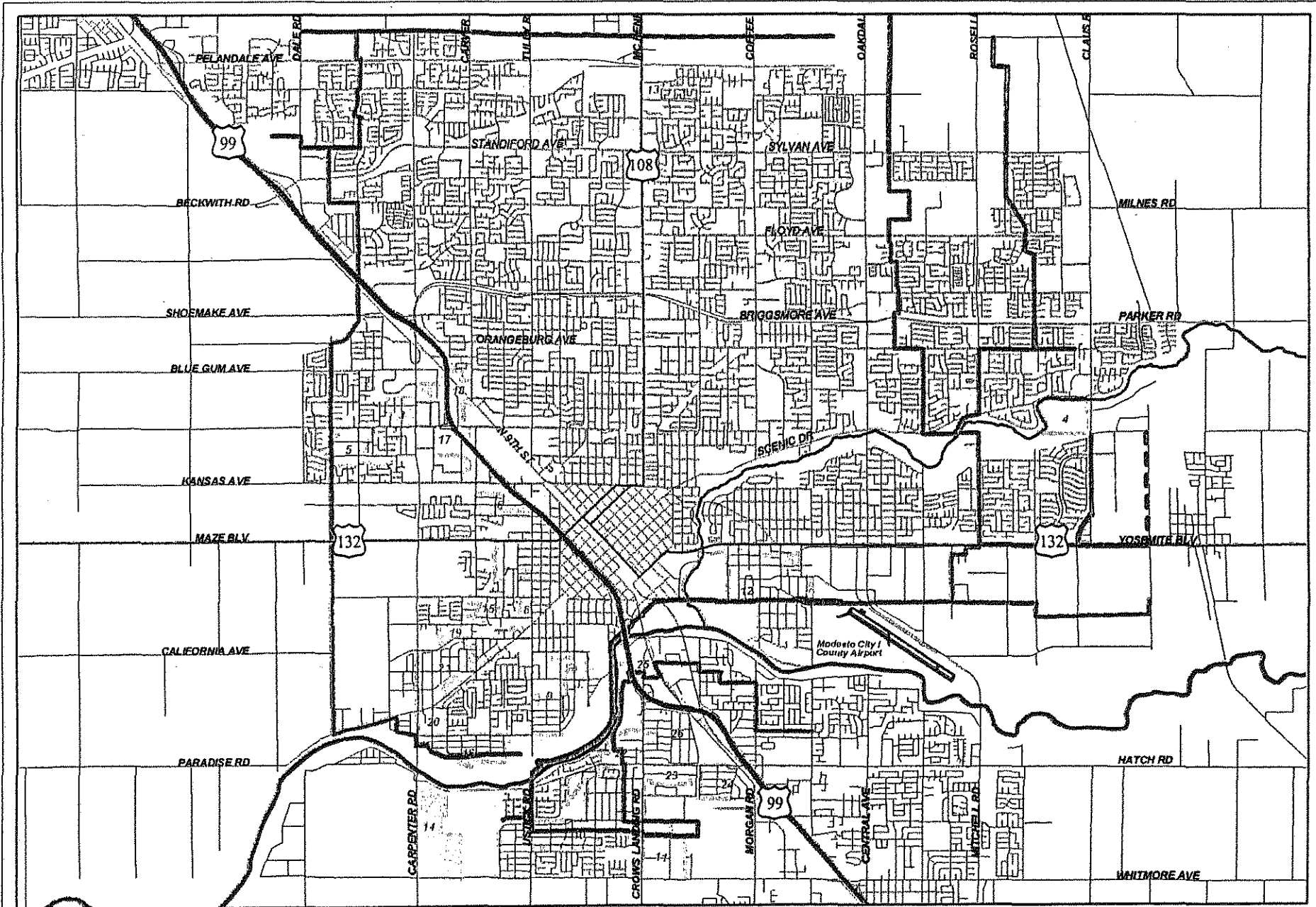
- Legend**
- CPD Boundaries
 - General Plan Boundary
 - Trunk Lines
 - Sewer Lines
 - Schools
 - Parcel Boundaries
 - Roads
 - City of Modesto
 - County
 - Undeveloped Parks
 - Developed Parks



April 1, 2003

250 0 250 Feet





0.5 0 0.5 1 Miles

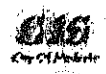
May 2, 2003



City of Modesto

Unincorporated Islands

Unincorporated Islands	Sewer Trunks
No Annexation Measure M Vote Received	Developer Proposed
	Existing
	Proposed



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-347**

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "COFFEE-SYLVAN INFILL AREA", GENERALLY LOCATED EAST OF COFFEE ROAD, SOUTH OF SYLVAN AVENUE, EAST AND WEST OF KELLER STREET CONTAINING 275 PARCELS ON 89 ACRES, IN THE MODESTO URBAN AREA GENERAL PLAN, AND APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO ("CITY") AND COUNTY OF STANISLAUS ("COUNTY") TO RESOLVE POTENTIAL FISCAL IMPACTS OF UPGRADING EXISTING DEFICIENT INFRASTRUCTURE WITHIN THE COFFEE-SYLVAN INFILL AREA OF THE MODESTO URBAN AREA GENERAL PLAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding and advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 4, 2003, an advisory measure relating to the provisions of sewer service to a certain area of the city with the understanding that this action is not the first step leading to annexation, it is for the sole purpose of making sewer service available to those areas and with the further understanding that no City funds will be expended to provide such sewer service.

WHEREAS, the Measure M Policy further provides that a Measure M vote for substantial infill areas will not be scheduled until the City and County have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure; and,

WHEREAS, the City and County shall resolve the potential impacts of upgrading existing infrastructure on the terms and conditions as set forth in the agreement, so that the City can schedule a Measure M vote for the Infill Area.

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

SECTION 1. BALLOT MEASURE.

Provided the County of Stanislaus approve the Public Improvement Agreement attached as "Exhibit A" on or before July 23, 2003, then pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE *

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan?

"Coffee-Sylvan Infill Area"

The following unincorporated area generally located east of Coffee Road, south of Sylvan Avenue, east and west of Keller Street containing 275 lots on 89 acres.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE * City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan provided the area is first annexed to the City? Yes
No

Coffee-Sylvan Infill Area

The unincorporated area generally located east of Coffee Road, south of Sylvan Avenue, east and west of Keller Street containing 275 lots on 89 acres.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and 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 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 July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

PUBLIC IMPROVEMENT AGREEMENT

This Agreement is made, entered into and effective the ____ day of July, 2003, by and between the CITY OF MODESTO, a municipal corporation ("CITY") and the COUNTY OF STANISLAUS, a political subdivision of the State of California ("COUNTY"). This Agreement is made with reference to the following:

WHEREAS, CITY owns, operates and maintains a sewer district which is designed and intended to serve residents and business located within the City of Modesto ("Sewer District"); and,

WHEREAS, there exists an substantial unincorporated County island within the CITY's limits which is commonly known as the Coffee-Sylvan Neighborhood, more particularly described in Exhibit A hereto and incorporated herein by reference ("Infill Area"); and,

WHEREAS, COUNTY has requested that CITY's Sewer District provide sewer service to the Infill Area; and,

WHEREAS, the Modesto Citizens Advisory Growth Management Act, commonly known as "Measure A" and the Modesto Citizens Advisory Growth Management Act of 1995 ("Measure M") provide that CITY's Council shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election as provided by California Elections Code section 9603; and,

WHEREAS, CITY's Policy to Implement Measure M ("Measure M Policy") recognizes that a successful Measure M vote may lead to public expectations that annexation will immediately follow with corresponding expectations that existing deficient infrastructure will be upgraded to meet current CITY standards; and,

WHEREAS, in recognition of these expectations, the Measure M Policy further provides

that a Measure M vote for substantial infill areas will not be scheduled until the CITY and COUNTY have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure; and,

WHEREAS, CITY and COUNTY have resolved the potential fiscal impacts of upgrading existing deficient infrastructure on the terms and conditions as set forth in this Agreement so that CITY can schedule a Measure M vote for the Infill Area.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

1. CONSTRUCTION OF PUBLIC IMPROVEMENTS

Prior to connection of any sewer lines to CITY's Sewer District, or provision of any sewer service from CITY's Sewer District to any lot within the Infill Area, COUNTY shall improve all existing public improvements, or construct new public improvements, to fully comply with all requirements of the Modesto Municipal Code and all current CITY standards. The public improvements to be upgraded or newly constructed shall include but not be limited to streets, street lighting, storm drainage, sewer, sidewalks, curbs and gutters. The design and construction of all such public improvements, including all labor, materials and supplies used upon, for or about the performance of said work, shall be at COUNTY's sole cost.

2. CONSTRUCTION OF PUBLIC SEWER IMPROVEMENTS

Prior to connection of any sewer lines to CITY's Sewer District, or provision of any sewer service from CITY's Sewer District to any lot within the Infill Area, COUNTY shall construct all sewer subtrunks, laterals and other piping facilities which would be necessary to extend sewer service from CITY's Sewer District to the Infill Area, if and when the CITY is able to do so, and shall enter into an agreement with the CITY regarding maintenance of said sewer

pipelines. COUNTY shall design and construct all such sewer improvements to fully comply with all requirements of the Modesto Municipal Code and all current CITY standards. The design and construction of all sewer improvements, including all labor, materials and supplies used upon, for or about the performance of said work, shall be at COUNTY's sole cost.

3. COMPLETION OF PUBLIC IMPROVEMENTS.

COUNTY agrees to take all actions as may be necessary to ensure that the upgrades to and construction of Public Improvements as provided in this Agreement are complete and, where appropriate, dedicated to and accepted by CITY prior to connection of sewer from CITY's Sewer District to Infill Area, or to provision of sewer service to any lot within the Infill Area. In the event that COUNTY shall fail to complete such work within said time, the CITY may, at its sole option, complete the same, and recover the full cost and expense thereof from the COUNTY.

5. INDEMNIFICATION.

COUNTY shall hold CITY harmless from, and save, defend and indemnify it against any and all claims, losses, liabilities and damages from every cause including, but not limited to, injury to person or to property or wrongful death, with the indemnity to include reasonable attorney's fees, and all costs and expenses, arising directly or indirectly out of any act or omission of COUNTY, whether or not the act or omission arises from the sole negligence or other liability of COUNTY, or its agents, officers, employees, or volunteers relating to or arising out of the construction, dedication and installation of the above listed Public Improvements. The provisions of this Paragraph 3 shall survive the expiration and termination of this Agreement. The CITY shall promptly notify the COUNTY of any claim, action, or proceedings and shall cooperate fully in the defense.

4. GENERAL PROVISIONS.

A. COUNTY shall not have the right to assign this Agreement or any rights hereunder without the prior written approval of CITY, and such consent to transfer any rights hereunder shall not be unreasonably withheld by CITY.

B. All covenants, stipulations and agreements in this Agreement shall bind the representatives, successors and assigns of the respective parties.

C. Where the terms of this Agreement require the exercise of discretion by the CITY or COUNTY, or their respective engineering staff, discretion shall not be exercised in an unreasonable, arbitrary or capricious manner. CITY's execution of this Agreement in no way limits the discretion of CITY in the permit and approval process in connection with construction of any of the above Public Improvements, including but not limited to the provision of sewer service by CITY's Sewer District.

D. 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.

E. There shall be no third party beneficiaries to this Agreement.

F. Any waiver by CITY of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure of CITY to take action on any breach or default of COUNTY or to pursue any remedy allowed under this Agreement or applicable law.

G. This Agreement and its exhibit contain the entire understanding between COUNTY and CITY with respect to the matters contained 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.

H. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

I. COUNTY shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits related to the performance of their respective obligations under this Agreement, including the design, installation, and construction of the above Public Improvements.

IN WITNESS WHEREOF, CITY, 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. 2003-____, adopted by the Council of the City of Modesto on the ____ day of July, 2003, and COUNTY has authorized the execution of this Agreement in duplicate by its Chief Executive Officer under authority of Resolution No. _____, adopted by the Board of Supervisors of Stanislaus County on the ____ day of July, 2003.

CITY OF MODESTO,
a municipal corporation

COUNTY OF STANISLAUS, a political
subdivision of the State of California

By _____
JACK CRIST, City Manager

REAGAN WILSON, Chief Executive
Officer

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
MICHAEL D. MILICH, City Attorney

APPROVED AS TO FORM:
MICHAEL KRAUSNICK, County Counsel

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

By _____
ED BURROUGHS,
Deputy County Counsel

EXHIBIT "A"

"Coffee-Sylvan Infill Area"

The unincorporated area generally located east of Coffee Road, south of Sylvan Avenue, east and west of Keller Street containing 275 lots on 89 acres.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-348**

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "COFFEE-SYLVAN INFILL AREA", GENERALLY LOCATED EAST OF COFFEE ROAD, SOUTH OF SYLVAN AVENUE, EAST AND WEST OF KELLER STREET CONTAINING 275 PARCELS ON 89 ACRES, IN THE MODESTO URBAN AREA GENERAL PLAN 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 4, 2003, an advisory measure concerning the unincorporated area referred to as "Coffee-Sylvan Infill Area", the unincorporated area generally located east of Coffee Road, south of Sylvan Avenue, east and west of Keller Street containing 275 parcels on 89 acres, in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk 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 on 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahn
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-349**

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 ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "COFFEE-SYLVAN INFILL AREA", GENERALLY LOCATED EAST OF COFFEE ROAD, SOUTH OF SYLVAN AVENUE, EAST AND WEST OF KELLER STREET CONTAINING 275 PARCELS ON 89 ACRES IN THE AREA OF THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, an advisory measure concerning the unincorporated area referred to as "Coffee-Sylvan Infill Area", the unincorporated area generally located east of Coffee Road, south of Sylvan Avenue, east and west of Keller Street containing 275 parcels on 89 acres in the Modesto Urban Area General Plan.

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 argument 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-350**

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREAS DESIGNATED "EMPIRE NORTH COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD, NORTH OF SUMMIT WAY, WEST OF CHURCH STREET AND SOUTH OF DRY CREEK IN THE MODESTO URBAN AREA GENERAL PLAN AND "JOHANSEN COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF CLAUSE ROAD, NORTH OF YOSEMITE, WEST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD AND SOUTH OF DRY CREEK

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding and advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 4, 2003, an advisory measure relating to the provisions of sewer service to a certain area of the City.

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

SECTION 1. BALLOT MEASURE.

That pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE L

Shall the City Council provide sewer service to the following described areas of the Modesto Urban Area General Plan, provided the areas are first annexed to the City?

“Empire North Comprehensive Planning District, consisting of 141 gross acres”

The unincorporated area designated “Empire North Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally located, the unincorporated area is, east of the Burlington Northern Santa Fe Railroad, north of Summit Way, west of Church Street and south of Dry Creek.

“Johansen Comprehensive Planning District, consisting of 501 gross acres”

The unincorporated area designated “Johansen Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally located, the unincorporated area is, east of Claus Road, north of Yosemite, west of the Burlington Northern Santa Fe Railroad and south of Dry Creek.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE L City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described areas of the Modesto Urban Area General Plan provided the areas are first annexed to the City? Yes No

Empire North Comprehensive Planning District, 141 gross acres

The unincorporated area designated “Empire North Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally located, the unincorporated area is, east of the Burlington Northern Santa Fe Railroad, north of Summit Way, west of Church Street and south of Dry Creek.

“Johansen Comprehensive Planning District, consisting of 501 gross acres”

The unincorporated area designated “Johansen Comprehensive Planning District” in the Modesto Urban Area General Plan. Generally located, the unincorporated area is, east of Claus Road, north of Yosemite, west of the Burlington Northern Santa Fe Railroad and south of Dry Creek.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of

Stanislaus, and 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-351**

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA DESIGNATED "EMPIRE NORTH COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD, NORTH OF SUMMIT WAY, WEST OF CHURCH STREET AND SOUTH OF DRY CREEK IN THE MODESTO URBAN AREA GENERAL PLAN AND "JOHANSEN COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF CLAUSE ROAD, NORTH OF YOSEMITE, WEST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD AND SOUTH OF DRY CREEK 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 4, 2003, an advisory measure concerning the unincorporated areas designated "Empire North Comprehensive Planning District" and "Johansen Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk 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 on 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-352**

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 ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA DESIGNATED "EMPIRE NORTH COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD, NORTH OF SUMMIT WAY, WEST OF CHURCH STREET AND SOUTH OF DRY CREEK IN THE MODESTO URBAN AREA GENERAL PLAN AND "JOHANSEN COMPREHENSIVE PLANNING DISTRICT" IN THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED EAST OF CLAUSE ROAD, NORTH OF YOSEMITE, WEST OF THE BURLINGTON NORTHERN SANTA FE RAILROAD AND SOUTH OF DRY CREEK

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, an advisory measure concerning the unincorporated areas designated "Empire North Comprehensive Planning District" and "Johansen Comprehensive Planning District" in the Modesto Urban Area General Plan.

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 argument 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-353**

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO AN 80 ACRE PORTION OF THE UNINCORPORATED AREA DESIGNATED "KIERNAN-CARVER COMPREHENSIVE PLANNING DISTRICT" DESIGNATED "VILLAGE RESIDENTIAL" BY THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED SOUTH OF BANGS AVENUE, NORTH OF PELANDALE AVENUE, EAST OF CARVER ROAD AND WEST OF TULLY ROAD.

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding and advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 4, 2003, an advisory measure relating to the provisions of sewer service to a certain area of the city.

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

SECTION 1. BALLOT MEASURE.

That pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE M

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City?

“Kiernan-Carver Comprehensive Planning District, 80-acre portion located south of Bangs Avenue, north of Pelandale Ave, east of Carver Road, and west of Tully Road”

The 80-acre portion of the unincorporated area designated “Kiernan-Carver Comprehensive Planning District” by the Modesto Urban Area General Plan, located south of Bangs Avenue, north of Pelandale Avenue, east of Carver Road and west of Tully Road.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE M City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan provided the area is first annexed to the City? Yes
No

“Kiernan-Carver Comprehensive Planning District, 80-acre portion located south of Bangs Avenue, north of Pelandale Ave, east of Carver Road, and west of Tully Road”

The 80-acre portion of the unincorporated area designated “Kiernan-Carver Comprehensive Planning District” by the Modesto Urban Area General Plan, located south of Bangs Avenue, north of Pelandale Avenue, east of Carver Road and west of Tully Road.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-354**

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO AN 80 ACRE PORTION OF THE UNINCORPORATED AREA DESIGNATED "KIERNAN-CARVER COMPREHENSIVE PLANNING DISTRICT" DESIGNATED "VILLAGE RESIDENTIAL" BY THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED SOUTH OF BANGS AVENUE, NORTH OF PELANDALE AVENUE, EAST OF CARVER ROAD AND WEST OF TULLY ROAD 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 4, 2003, an advisory measure concerning an eighty (80) acre portion of the unincorporated area designated "Kiernan-Carver Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk 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 on 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-355**

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 ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO AN 80 ACRE PORTION OF THE UNINCORPORATED AREA DESIGNATED "KIERNAN-CARVER COMPREHENSIVE PLANNING DISTRICT" DESIGNATED "VILLAGE RESIDENTIAL" BY THE MODESTO URBAN AREA GENERAL PLAN, GENERALLY LOCATED SOUTH OF BANGS AVENUE, NORTH OF PELANDALE AVENUE, EAST OF CARVER ROAD AND WEST OF TULLY ROAD.

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, an advisory measure concerning an eighty (80) acre portion of the unincorporated area designated "Kiernan-Carver Comprehensive Planning District" in the Modesto Urban Area General Plan.

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 argument 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-356**

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "ROBERTSON ROAD INFILL AREA", 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 IN THE MODESTO URBAN AREA GENERAL PLAN, AND APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO ("CITY") AND COUNTY OF STANISLAUS ("COUNTY") TO RESOLVE POTENTIAL FISCAL IMPACTS OF UPGRADING EXISTING DEFICIENT INFRASTRUCTURE WITHIN THE ROBERTSON ROAD INFILL AREA OF THE MODESTO URBAN AREA GENERAL PLAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding and advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 4, 2003, an advisory measure relating to the provisions of sewer service to a certain area of the city with the understanding that this action is not the first step leading to annexation, it is for

the sole purpose of making sewer service available to those areas and with the further understanding that no City funds will be expended to provide such sewer service.

WHEREAS, the Measure M Policy further provides that a Measure M vote for substantial infill areas will not be scheduled until the City and County have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure; and,

WHEREAS, the City and County shall resolve the potential impacts of upgrading existing infrastructure on the terms and conditions as set forth in the agreement, so that the City can schedule a Measure M vote for the Infill Area.

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

SECTION 1. BALLOT MEASURE.

Provided the County of Stanislaus approve the Public Improvement Agreement attached as "Exhibit A" on or before July 23, 2003, then pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE *

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan?

"Robertson Road Infill Area"

The following unincorporated area 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.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE * City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan provided the area is first annexed to the City?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

Robertson Road Infill Area

The unincorporated area generally located south of SR 99, east of Crows Landing Road, west of Main Street, and north of Hatch Road containing 334 parcels on 96.8 acres.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and 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 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 July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

PUBLIC IMPROVEMENT AGREEMENT

This Agreement is made, entered into and effective the ____ day of July, 2003, by and between the CITY OF MODESTO, a municipal corporation ("CITY") and the COUNTY OF STANISLAUS, a political subdivision of the State of California ("COUNTY"). This Agreement is made with reference to the following:

WHEREAS, CITY owns, operates and maintains a sewer district which is designed and intended to serve residents and business located within the City of Modesto ("Sewer District"); and,

WHEREAS, there exists an substantial unincorporated County island within the CITY's limits which is commonly known as the Robertson Road Neighborhood, more particularly described in Exhibit A hereto and incorporated herein by reference ("Infill Area"); and,

WHEREAS, COUNTY has requested that CITY's Sewer District provide sewer service to the Infill Area; and,

WHEREAS, the Modesto Citizens Advisory Growth Management Act, commonly known as "Measure A" and the Modesto Citizens Advisory Growth Management Act of 1995 ("Measure M") provide that CITY's Council shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election as provided by California Elections Code section 9603; and,

WHEREAS, CITY's Policy to Implement Measure M ("Measure M Policy") recognizes that a successful Measure M vote may lead to public expectations that annexation will immediately follow with corresponding expectations that existing deficient infrastructure will be upgraded to meet current CITY standards; and,

WHEREAS, in recognition of these expectations, the Measure M Policy further provides

that a Measure M vote for substantial infill areas will not be scheduled until the CITY and COUNTY have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure; and,

WHEREAS, CITY and COUNTY have resolved the potential fiscal impacts of upgrading existing deficient infrastructure on the terms and conditions as set forth in this Agreement so that CITY can schedule a Measure M vote for the Infill Area.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

1. CONSTRUCTION OF PUBLIC IMPROVEMENTS

Prior to connection of any sewer lines to CITY's Sewer District, or provision of any sewer service from CITY's Sewer District to any lot within the Infill Area, COUNTY shall improve all existing public improvements, or construct new public improvements, to fully comply with all requirements of the Modesto Municipal Code and all current CITY standards. The public improvements to be upgraded or newly constructed shall include but not be limited to streets, street lighting, storm drainage, sewer, sidewalks, curbs and gutters. The design and construction of all such public improvements, including all labor, materials and supplies used upon, for or about the performance of said work, shall be at COUNTY's sole cost.

2. CONSTRUCTION OF PUBLIC SEWER IMPROVEMENTS

Prior to connection of any sewer lines to CITY's Sewer District, or provision of any sewer service from CITY's Sewer District to any lot within the Infill Area, COUNTY shall construct all sewer subtrunks, laterals and other piping facilities which would be necessary to extend sewer service from CITY's Sewer District to the Infill Area, if and when the CITY is able to do so, and shall enter into an agreement with the CITY regarding maintenance of said sewer

pipelines. COUNTY shall design and construct all such sewer improvements to fully comply with all requirements of the Modesto Municipal Code and all current CITY standards. The design and construction of all sewer improvements, including all labor, materials and supplies used upon, for or about the performance of said work, shall be at COUNTY's sole cost.

3. COMPLETION OF PUBLIC IMPROVEMENTS.

COUNTY agrees to take all actions as may be necessary to ensure that the upgrades to and construction of Public Improvements as provided in this Agreement are complete and, where appropriate, dedicated to and accepted by CITY prior to connection of sewer from CITY's Sewer District to Infill Area, or to provision of sewer service to any lot within the Infill Area. In the event that COUNTY shall fail to complete such work within said time, the CITY may, at its sole option, complete the same, and recover the full cost and expense thereof from the COUNTY.

5. INDEMNIFICATION.

COUNTY shall hold CITY harmless from, and save, defend and indemnify it against any and all claims, losses, liabilities and damages from every cause including, but not limited to, injury to person or to property or wrongful death, with the indemnity to include reasonable attorney's fees, and all costs and expenses, arising directly or indirectly out of any act or omission of COUNTY, whether or not the act or omission arises from the sole negligence or other liability of COUNTY, or its agents, officers, employees, or volunteers relating to or arising out of the construction, dedication and installation of the above listed Public Improvements. The provisions of this Paragraph 3 shall survive the expiration and termination of this Agreement. The CITY shall promptly notify the COUNTY of any claim, action, or proceedings and shall cooperate fully in the defense.

4. GENERAL PROVISIONS.

A. COUNTY shall not have the right to assign this Agreement or any rights hereunder without the prior written approval of CITY, and such consent to transfer any rights hereunder shall not be unreasonably withheld by CITY.

B. All covenants, stipulations and agreements in this Agreement shall bind the representatives, successors and assigns of the respective parties.

C. Where the terms of this Agreement require the exercise of discretion by the CITY or COUNTY, or their respective engineering staff, discretion shall not be exercised in an unreasonable, arbitrary or capricious manner. CITY's execution of this Agreement in no way limits the discretion of CITY in the permit and approval process in connection with construction of any of the above Public Improvements, including but not limited to the provision of sewer service by CITY's Sewer District.

D. 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.

E. There shall be no third party beneficiaries to this Agreement.

F. Any waiver by CITY of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure of CITY to take action on any breach or default of COUNTY or to pursue any remedy allowed under this Agreement or applicable law.

G. This Agreement and its exhibit contain the entire understanding between COUNTY and CITY with respect to the matters contained 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.

H. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

I. COUNTY shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits related to the performance of their respective obligations under this Agreement, including the design, installation, and construction of the above Public Improvements.

IN WITNESS WHEREOF, CITY, 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. 2003-____, adopted by the Council of the City of Modesto on the ____ day of July, 2003, and COUNTY has authorized the execution of this Agreement in duplicate by its Chief Executive Officer under authority of Resolution No. _____, adopted by the Board of Supervisors of Stanislaus County on the ____ day of July, 2003.

CITY OF MODESTO,
a municipal corporation

By _____
JACK CRIST, City Manager

COUNTY OF STANISLAUS, a political
subdivision of the State of California

REAGAN WILSON, Chief Executive
Officer

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
MICHAEL D. MILICH, City Attorney

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

APPROVED AS TO FORM:
MICHAEL KRAUSNICK, County Counsel

By _____
ED BURROUGHS,
Deputy County Counsel

EXHIBIT "A"

"Robertson Road Infill Area"

The unincorporated area 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.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-357**

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS “ROBERTSON ROAD INFILL AREA”, 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 IN THE MODESTO URBAN AREA GENERAL PLAN 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 4, 2003, an advisory measure concerning the unincorporated area referred to as “Robertson Road Infill Area”, the unincorporated area 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, in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk 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 on 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-358**

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 ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "ROBERTSON ROAD INFILL AREA", 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 IN THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, an advisory measure concerning the unincorporated area referred to as "Robertson Road Infill Area", the unincorporated area 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 in the Modesto Urban Area General Plan.

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 argument 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-359**

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "SHACKELFORD INFILL AREA", GENERALLY LOCATED SOUTH OF SR 99, EAST OF CROWS LANDING ROAD, WEST OF MAIN STREET, AND NORTH OF HATCH ROAD CONTAINING 497 PARCELS ON 153 ACRES IN THE MODESTO URBAN AREA GENERAL PLAN, AND APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO ("CITY") AND COUNTY OF STANISLAUS ("COUNTY") TO RESOLVE POTENTIAL FISCAL IMPACTS OF UPGRADING EXISTING DEFICIENT INFRASTRUCTURE WITHIN THE SHACKELFORD INFILL AREA OF THE MODESTO URBAN AREA GENERAL PLAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding and advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 4, 2003, an advisory measure relating to the provisions of sewer service to a certain area of the city with the understanding that this action is not the first step leading to annexation, it is for

the sole purpose of making sewer service available to those areas and with the further understanding that no City funds will be expended to provide such sewer service.

WHEREAS, the Measure M Policy further provides that a Measure M vote for substantial infill areas will not be scheduled until the City and County have addressed and reached agreement to resolve the potential fiscal impacts of upgrading existing deficient infrastructure; and,

WHEREAS, the City and County shall resolve the potential impacts of upgrading existing infrastructure on the terms and conditions as set forth in the agreement, so that the City can schedule a Measure M vote for the Infill Area.

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

SECTION 1. BALLOT MEASURE.

That pursuant to Section 9603 of the Elections Code, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE N

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan?

“Shackelford Infill Area”

The following unincorporated area generally located south of SR 99, east of Crows Landing Road, west of Main Street, and north of Hatch Road containing 497 parcels on 153 acres.

SECTION 2. FORM OF BALLOT

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE N City of Modesto Sewer Service Extension Advisory Measure.

Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan provided the area is first annexed to the City? Yes
No

Shackelford Infill Area

The unincorporated area generally located south of SR 99, east of Crows Landing Road, west of Main Street, and north of Hatch Road containing 497 parcels on 153 acres.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and 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 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 July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-360**

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS “SHACKELFORD INFILL AREA”, GENERALLY LOCATED SOUTH OF SR 99, EAST OF CROWS LANDING ROAD, WEST OF MAIN STREET, AND NORTH OF HATCH ROAD CONTAINING 497 PARCELS ON 153 ACRES, IN THE MODESTO URBAN AREA GENERAL PLAN 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 4, 2003, an advisory measure concerning the unincorporated area referred to as “Shackelford Infill Area”, the unincorporated area generally located south of SR 99, east of Crows Landing Road, west of Main Street, and north of Hatch Road containing 497 parcels on 153 acres, in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk 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 on 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-361**

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 ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS "SHACKELFORD INFILL AREA", GENERALLY LOCATED SOUTH OF SR 99, EAST OF CROWS LANDING ROAD, WEST OF MAIN STREET, AND NORTH OF HATCH ROAD CONTAINING 497 PARCELS ON 153 ACRES, IN THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, an advisory measure concerning the unincorporated area referred to as "Shackelford Infill Area", the unincorporated area generally located south of SR 99, east of Crows Landing Road, west of Main Street, and north of Hatch Road containing 497 parcels on 153 acres, in the Modesto Urban Area General Plan.

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 argument 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 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-362**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-04 OPERATING BUDGET TO APPROPRIATE \$24,000 FROM THE GENERAL FUND RESERVE, 0100-800-8000-8003 TO THE PARKS SERVICES MAINTENANCE, 0100-480-4522-0235.

WHEREAS, for several years, staff has been meeting with citizens to discuss recommendations regarding the consumption of alcohol in the City's parks, and

WHEREAS, the Community Qualities Forum also addressed the issue of alcohol in parks, and passed a motion on February 13, 2002, recommending that the city pass an ordinance prohibiting the consumption of alcohol in all neighborhood parks, and

WHEREAS, an ordinance was introduced at the July 1, 2003, City Council meeting amending sections 12-4.201 and 12-4.202 of Article 2 of Chapter 4 of Title 12 of the Modesto Municipal Code relating to use of park and recreation areas and facilities, and

WHEREAS, in order to enforce the ordinance, signage must be strategically placed at the identified miscellaneous/neighborhood parks at a cost of \$24,000, and

WHEREAS, the Safety and Communities Committee met on March 3, 2003, and supported recommendation of the proposed amendments to sections 12-4.201 and 12-4.202 of Article 2 of Chapter 4 of Title 12 of the Modesto Municipal Code relating to use of park and recreation areas and facilities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2003-04 operating budget to appropriate \$24,000 from the General Fund Reserve, 0100-800-8000-8003 to Parks Service and Maintenance, 0100-480-4522-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, O'Bryant

NOES: Councilmembers: Jackman, Keating, Mayor Sabatino

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 363**

**A RESOLUTION APPROVING RENEWAL OF 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, renewal of City's excess workers' compensation insurance is due on July 1, 2003, and

WHEREAS, staff has received an initial quote that provides for a rate increase due to the pool's loss experience and the City of Modesto's loss experience in particular, and

WHEREAS, our Broker of Record, Driver Alliant, was unable to obtain a better price in the commercial insurance market, and

WHEREAS, due to time constraints in the renewal process, staff will receive an optional quote for \$750,000 self-insured retention (SIR) by June 30, 2003, and

WHEREAS, based upon policy direction received from Council, staff will bind Insurance coverage through the City's broker at \$1 million SIR or \$750,000 SIR, if financially advantageous.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Acting Risk Manager is hereby authorized to bind excess workers' compensation insurance coverage as presented by the City's Broker of Record and the City Manager is authorized to execute the renewal agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(Seal)

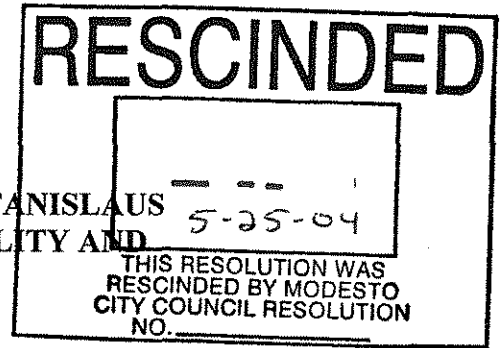
APPROVED AS TO FORM

By:


Michael D. Milich, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-364

A RESOLUTION REVISING TIPPING FEES AT THE STANISLAUS
RESOURCE RECOVERY (WASTE-TO-ENERGY) FACILITY AND
RESCINDING RESOLUTION NO. 2001-586



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 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, 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, the Contracting Communities approved a \$30.00 per ton tipping fee
at the Waste-to-Energy Facility which became effective January 1, 2002, and

WHEREAS, the Council of the City of Modesto must concur with any proposed
reduction in the tipping fees at the Facility, and

WHEREAS, the Solid Waste-to-Energy Executive Committee, at its June 12,
2003, meeting, discussed a \$2.00 per ton reduction in the tipping fees at the Facility and
recommends approval of said decrease in the tipping fees and City staff recommends,
upon concurrence by the County Board of Supervisors, that the tipping fees at the
Waste-to-Energy Facility be decreased from the present \$30.00 per ton to \$28.00 per
ton, effective August 1, 2003

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a decrease in the tipping fees at the Waste-to-Energy Facility from the present \$30.00 per ton to \$28.00 per ton, effective August 1, 2003.

BE IT FURTHER RESOLVED that Resolution No. 2001- 586 is hereby rescinded effective July 31, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-365**

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH OMNI MEANS, LTD., IN THE AMOUNT OF \$8,828 FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT TO PROVIDE ENGINEERING SERVICES RELATED TO THE STREET PROJECT DOCUMENTATION FOR THE CAPITAL FACILITIES FEE UPDATE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on August 8, 2002, the City Council approved a professional services agreement with Omni Means, Ltd., to prepare documentation for street projects to be included in the Capital Facilities Fee program update, and

WHEREAS, following completion of their original tasks, Omni Means, Ltd. was asked to provide additional input and attend a number of meetings to aid in gaining final approval of the program update, and

WHEREAS, Omni Means, Ltd. has requested an additional fee of \$8,828 to cover the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with Omni Means, Ltd., in the amount of \$8,828 for additional services for the document preparation of the Capital Facilities Fee program update.

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 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-366**

A RESOLUTION APPROVING AMENDMENT NO. 16 TO THE AGREEMENT FOR KANSAS NEEDHAM OVERHEAD CONSTRUCTION SUPPORT SERVICES WITH PARSONS TRANSPORTATION GROUP IN THE AMOUNT OF \$51,381.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, by Resolution No. 88-750, the original Agreement for Engineering Services with Parsons Transportation Group (formerly known as De Leuw, Cather & Company) for the Ninth Street Railroad Relocation Project was approved by Council on October 4, 1988, and

WHEREAS, the initial agreement and seven subsequent amendments were for studies and applications for grants, and

WHEREAS, Amendment Nos. 9, 10, 11, & 12 began the actual design and property research, and

WHEREAS, Amendment No. 12 funded the re-design efforts after Caltrans approved the Kansas Needham Highway 132 realignment project, and

WHEREAS, Amendment No. 13 funded the aesthetic treatments of the Kansas-Needham Overhead, intersection changes to College-Needham, and construction support services, and

WHEREAS, Amendment No. 14 funded an expanded scope of services to address additional design changes and project delays, and

WHEREAS, Amendment No. 15 funded construction support services for the Pacbell retaining wall, resolved submittal issues and errors, and

WHEREAS, Amendment No. 16 will continue to fund construction support services and thus complete the construction of the Kansas Needham Overhead,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 16 to an agreement between the City of Modesto and the Parsons Transportation Group for continued engineering services for the 9th Street Railroad Relocation project (Kansas Needham Overhead) be, and it is hereby approved.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute said amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-367**

**A RESOLUTION APPROVING THE FINAL MAP OF THE VILLAGIO
SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH K-D LAND
& CATTLE INVESTMENTS, LLC, A CALIFORNIA LIMITED LIABILITY
COMPANY**

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.74 acres, known as the VILLAGIO SUBDIVISION (“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 17th day of June, 2002, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets, alleys 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 subdivider 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 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 368**

A RESOLUTION APPROVING A CHANGE TO THE PREVIOUSLY APPROVED INSTITUTIONAL NETWORK CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND COMCAST OF CALIFORNIA XII, INC., REMOVING THE PROVISION IN SECTION 3 FOR THE BUY-OUT OF THE I-NET IN THE EVENT THAT THERE IS NO LONGER A CABLE FRANCHISE IN THE CITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on April 1st 2003, Council approved an agreement with Comcast of California XII, Inc relating to the installation of a fiber and conduit network (I-NET) for the City and other public agency use, and

WHEREAS, staff agreed to return to Council for further approval if there were any material changes to the contract, and

WHEREAS, since that time, Comcast and the City have been unable to reach a resolution on the issue of ownership of the I-NET at the termination of the Franchise Renewal Agreement, and

WHEREAS, the City proposed that in the event of termination the I-NET would transfer to the City and the other agencies at its fully depreciated value, and

WHEREAS, Comcast suggests that the transfer price should be based on the fair market value of the I-NET, and

WHEREAS, to facilitate the completion of the agreement, Comcast Government Affairs representative and the City's special counsel suggested the contract remain silent on the issue of the I-NET ownership in the event of termination of the Franchise Renewal Agreement and City staff concurs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a change to the previously approved Institutional Network Construction and Maintenance Agreement between the City of Modesto and Comcast of California X11, Inc

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager or his designee to execute said agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-369**

**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 classifications:

1. Environmental Compliance Inspector I
2. Environmental Compliance Inspector II
3. Senior Environmental Compliance Inspector
4. Regulatory Compliance Supervisor
5. Laboratory & Environmental Monitoring Supervisor

The classifications were created as a result of an audit completed for The Environmental Services Unit of the Operations and Maintenance Department and as a result of negotiations with the Modesto City Employees' Association.

The specifications for the classifications of Environmental Compliance Inspector I, Environmental Compliance Inspector II as shown on the attached Exhibit "A", Senior Environmental Compliance Inspector as shown on the attached Exhibit "A-1", Regulatory Compliance Supervisor as shown on the attached Exhibit "A-2", and Laboratory & Environmental Monitoring Supervisor as shown on the attached Exhibit "A-3", which are hereby made a part of this resolution by reference, are hereby approved and made a part of the Position Classification Plan of the City of the City of Modesto.

SECTION 2. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classifications:

Industrial Waste Inspector I
Industrial Waste Inspector II
Hazardous Materials Program Coordinator
Industrial Waste Supervisor

Said classifications are being deleted as a result of the creation of the new classifications which are set forth in SECTION 1 of this Resolution.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The forgoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

CITY OF MODESTO
No. 3261
No. 3262

JULY 2003

ENVIRONMENTAL COMPLIANCE INSPECTOR I/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

Under supervision, to investigate and enforce state, Federal, and local standards for pretreatment and discharges into city wastewater collection systems; to investigate and enforce local, state, and federal regulations for storm water; to perform inspections of businesses and systems, obtaining samples and ensuring compliance with discharge permits and requirements; to conduct on-going monitoring, compliance, data collection, analysis and reporting.

DISTINGUISHING CHARACTERISTICS

The Inspector I is the entry and first working level in the Environmental Compliance Inspector class series. Incumbents in this class learn to conduct basic inspections, investigations, and perform on-going monitoring and enforcement activities covering wastewater collection systems, storm water quality, pretreatment requirements, and environmental compliance. Many assignments are performed in a training capacity. This level is distinguished from Environmental compliance Inspector II in that the Environmental Compliance Inspector II is the journey level with incumbents expected to perform the full range of assignments on a relatively independent basis.

These positions are normally flexibly staffed, meaning an incumbent may advance to the II level after a minimum of 18 months and demonstration of proficiency that meets the requirements of Environmental Compliance Inspector II.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from Environmental Compliance Supervisor.

Essential Functions, Continued:

Environmental Compliance Inspector II (In addition to the requirements of the Inspector I):

May participate in administrative appeal and show cause hearings and participate in the development of compliance schedules.

Analyzes treatment plant influent sample results to determine effectiveness and compliance with Pretreatment program objectives.

May be assigned to respond to illicit storm water discharges, determining the type of pollutants, assess clean-up procedures and make appropriate notifications.

MARGINAL FUNCTION STATEMENTS:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Wastewater treatment, collection systems, and environmental contamination of storm water.

Chemical, biological, physical, and environmental sciences.

State, Federal, and local laws, regulations, and ordinances related to environmental regulation of wastewater treatment, pretreatment, and storm water.

Operations and maintenance of equipment used monitoring and control of industrial discharge, wastewater, and storm water.

Inspection methods and sampling techniques and standards.

Computers and software used in environmental inspections and investigations.

In Addition, Knowledge Required for Environmental Compliance Inspector II:

Policies and procedures of the City's Environmental Compliance Program.

Principles and practices of environmental compliance, including inspection, review, and enforcement methods and practices.

Principles of consulting with businesses and the public to promote environmental compliance.

Functions and operations of State and Federal environmental health and regulatory agencies.

Principles of work scheduling, planning and training.

Ability to:

Perform environmental compliance investigations, inspections and enforcement.

Collect, analyze, and interpret environmental data, reaching valid conclusions.

Read and interpret blue prints and schematic drawings.

Read, interpret and apply policies and procedures regarding environmental inspections and compliance with pretreatment systems and less complex storm water regulations.

Prepare a variety of technical reports.

Perform research and analytical work.

Perform medium to heavy manual labor, including lifting and carrying 75 lbs. of weight.

Operate a variety of office and technical equipment and computers.

QUALIFICATIONS:

Ability to, Continued:

Effectively represent the Environmental Services Unit of the Department in interactions with the public and with private sector individuals, firms and agencies.

Establish and maintain cooperative working relationships.

In Addition, Ability Required for Environmental Compliance Inspector II:

Provide instruction, guidance, and consultation on environmental problems within the assigned area.

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:

Inspector I:

Three (3) years of experience as a Wastewater Treatment Plant Operator or one (1) year of experience in environmental compliance inspection or water quality laboratory work.

Inspector II:

Eighteen (18) months of experience performing a variety of environmental investigations and inspections equivalent to that of an Environmental Compliance Inspector I with the City of Modesto or twenty-four (24) months performing a variety of environmental investigations and inspections for another public agency.

Training, Both Levels:

Education equivalent to completion of a college degree in biology, chemistry, physics, environmental science or a closely related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California Driver's license.

Completion of Hazardous Materials First Responder Operational Training as prescribed by the State Office of Emergency Services within the first two (2) years of appointment.

For Inspector I:

Possession of a valid Grade I Environmental Compliance Inspector Certificate issued by the California Water Environmental Association within two (2) years of appointment.

For Inspector II:

Possession of a valid Grade II Environmental Compliance Inspector Certificate issued by the California Water Environmental Association within two and one-half (2 ½) years of appointment.

WORKING CONDITIONS

Environmental Conditions:

Work is usually performed in office, outdoor, and driving environments; some work is performed in varying temperatures and humidity; some exposure to high levels of noise; some exposure to dust; possible exposure to hazardous waste and materials; possible exposure to gases, fumes, and a variety of pollutants; contact with other staff and the public.

Physical Conditions:

Sit for extended periods; frequently stand and walk; crawl through various areas on hands and knees; stand walk or crouch on narrow and slippery surfaces; climb ladders, stairs, and scaffolding; ability to lift and move objects weighing up to 75 lbs.; use of combustible gas meter, chlorine and PH instruments; and other applicable environmental monitoring and sampling devices.

EXHIBIT "A-1"

CITY OF MODESTO
No. 3263

JULY 2003

SENIOR ENVIRONMENTAL COMPLIANCE INSPECTOR

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 supervision, to investigate and enforce state, Federal, and local regulations for storm water; to perform inspections of businesses and systems, obtaining samples and ensuring compliance with discharge permits and requirements; to conduct on-going monitoring, compliance, data collection, analysis and reporting.

DISTINGUISHING CHARACTERISTICS

The Senior inspector is the advanced level in the Environmental Compliance Inspector class series. This level is distinguished from the Environmental Compliance Inspector II in that the Senior Environmental Compliance Inspector is the senior level with incumbents expected to perform and make decisions within the full range of assignments on an independent basis and to take the lead in training new staff.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Environmental Compliance Supervisor.

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

Essential Functions:

Assist the Section Supervisor in the development and revision of City Ordinances and Enforcement Response Plans related to environmental compliance.

Provide or coordinate staff training; work with employees to correct deficiencies through coaching.

Collect data for and prepare reports.

Essential Functions, Continued:

Manage and manipulate data base information.

Conduct or direct regular inspections of industrial, commercial, and multifamily residential facilities and construction sites that are regulated by the City's storm water program.

Monitor and enforce storm water programs, ensuring compliance with Federal, state, and local regulations.

Assess Notices of Intent (NOI) and Storm Water Pollution Prevention Plans for compliance with Federal, state and local regulations.

Identify, inspect and evaluate new industries and businesses for suitability of enrollment in the Storm Water Program.

Meet with representatives of businesses, industries and public agencies to review blueprints/plans to confirm proper configuration of facilities.

Determine the presence of appropriate Best Management Practices (BMP) for storm water construction activities, source and treatment controls.

Ensure that equipment and control measures meet statutory requirements.

Assist the Section Supervisor in the preparation of Administrative Orders and Notice and Orders to be issued by the City.

Participate in administrative appeal and show cause hearings.

Review and make recommendations regarding California Environmental Quality Act (CEQA), Environmental Impact Reports (EIR's), and associated documents, tentative maps, improvement plans, blueprints, and design plans to ensure adherence to Federal, state and local storm water regulations and standards applicable to construction activities, new and redevelopment projects.

Analyze storm water run-off sample data results to determine effectiveness and compliance with storm water program objectives.

Respond to, or direct the response to illicit discharges and potential illicit discharges to the storm drain system, assist in determining the type of pollutants,

Essential Functions, Continued:

Assess clean-up procedures, make appropriate recommendations for clean up, ensure clean-up is adequate and make appropriate notifications.

Perform and/or direct annual and/or seasonal storm water monitoring activities as assigned.

MARGINAL FUNCTION STATEMENTS:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Wastewater and storm water treatment, collection systems, and environmental contamination of storm water.

Chemical, biological, physical, and environmental sciences.

State, Federal, and local laws, regulations, and ordinances related to environmental regulation storm water.

Inspection methods, and sampling techniques and standards.

Computers and software used in environmental inspections and investigations.

Policies and procedures of the City's Environmental Compliance Program.

Principles and practices of environmental compliance, including inspection, review, and enforcement methods and practices.

Principles of consulting with businesses and the public to promote environmental compliance.

Principles of work scheduling, planning and training.

QUALIFICATIONS:

Ability to, Continued:

Perform, direct, and train others on environmental compliance investigations, inspections and enforcement.

Collect, analyze, and interpret environmental data, reaching valid conclusions.

Read and interpret blue prints and schematic drawings.

Read, interpret and apply policies and procedures regarding environmental inspections and compliance with storm water regulations.

Prepare and analyze a variety of technical reports.

Perform research and analytical work.

Perform medium to heavy manual labor, including lifting and carrying 75 pounds of weight.

Operate a variety of office and technical equipment and computers.

Effectively represent the Environmental Services Unit of the Department in interactions with the public and with private sector individuals, firms and agencies.

Establish and maintain cooperative working relationships.

Lead by example and train assigned staff

Communicate clearly and concisely, both orally and in writing.

Provide instruction, guidance, and consultation on environmental problems within the assigned area.

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:

Eighteen (18) months of experience performing a variety of environmental investigations and inspections equivalent to that of an Environmental Compliance Inspector II with the City of Modesto or twenty-four (24) months performing a variety of journey or senior level environmental investigations and inspections for another public agency.

Training:

Education equivalent to completion of a college degree in biology, chemistry, physics, environmental science or a closely related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California Driver's license.

Completion of Hazardous Materials First Responder Operational Training and Advanced Environmental Crimes Investigations Training, as prescribed by the State Office of Emergency Services, within the first two (2) years of appointment.

Possession of a valid Grade II Environmental Compliance Inspector Certificate issued by the California Water Environmental Association.

WORKING CONDITIONS

Environmental Conditions:

Work is usually performed in office, outdoor, and driving environments; some work is performed in varying temperatures and

Environmental Conditions, Continued:

humidity; some exposure to high levels of noise; some exposure to dust; possible exposure to hazardous waste and materials; possible exposure to gases, fumes, and a variety of pollutants; contact with other staff and the public.

Physical Conditions:

Sit for extended periods; frequently stand and walk; crawl through various areas on hands and knees; stand walk or crouch on narrow and slippery surfaces; climb ladders, stairs, and scaffolding; ability to lift and move objects weighing up to 75 pounds; use of combustible gas meter, PH instruments; and other applicable environmental monitoring and sampling devices.

REGULATORY COMPLIANCE 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

Supervise, plan, direct, and coordinate the City's Regulatory Compliance Program; to maintain the consistency of the City's Pretreatment and Stormwater Programs with State and Federal mandates; to direct the implementation of local pretreatment inspections; to direct the enforcement of state, Federal and local regulations regarding pretreatment and discharges into the City's wastewater collection system; to monitor and direct compliance with discharge permits; to coordinate the development and maintenance of a data base regarding pretreatment functions, inspections, and enforcement; and to do related work as required.

DISTINGUISHING CHARACTERISTICS

This is a single-position, first level supervisor for the Regulatory Compliance functions. The incumbent is responsible for supervising three major programs consisting of pretreatment, industrial, and public education and directing the work of assigned staff, ensuring that programs are fully implemented and meet required standards and mandates. In addition, the incumbent has a major role in the development of local ordinances and enforcement of environmental regulations.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Deputy Director of Operations and Maintenance. Exercises direct and indirect supervision over technical and clerical support staff.

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

Direct Pretreatment, Industrial, Plan Check, and Public Education Programs.

Develop, implement, and modify pretreatment inspection and enforcement programs that promote a safer environment, protect collection systems,

ESSENTIAL FUNCTION STATEMENTS, Continued:

groundwater, and receiving water in compliance with state, Federal, and local laws, regulations, and ordinances.

Supervise, evaluate and coach assigned staff including maintaining discipline and ensuring all rules, policies and procedures are enforced; advise and counsel subordinates; follow up on problems and complaints; participate in selection of staff.

Develop and manage program budgets, projecting future goals and projects based on program elements, ensuring proper spending and funding.

Meet with regional, State, and Federal regulators and other interested parties in developing and negotiating environmental permits for the City involving wastewater and storm water.

Oversee development and submission of required reports for State and Federal regulatory agencies associated with programs including the annual pretreatment and storm water reports.

Supervise and coordinate enforcement actions to ensure proper and consistent notices of violation, compliance schedules, citations, and notices of orders.

Monitor and coordinate contractual service activities related to effluent discharges, storm water programs and pretreatment activities.

Meet with City Council and Committees, City staff, industry managers, and community groups to discuss current pretreatment needs, environmental issues, future rates for services and pending regulations.

Oversee the development and maintenance of a pretreatment program database.

MARGINAL FUNCTION STATEMENTS:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Program planning and development methods and techniques.

Principles of budget development and fiscal monitoring.

Policies and procedures of the City's Environmental Compliance Program.

State and Federal laws, rules, regulations, requirements and procedures governing pretreatment, and storm water inspection and enforcement, including local ordinances, and related State and Federal regulations.

Chemical, biological, physical, and environmental sciences.

Principles and practices of environmental compliance, including inspection, review, and enforcement methods and practices.

Principles of consulting with businesses and the public to promote environmental compliance.

Functions and operations of State and Federal environmental health and regulatory agencies.

Sampling techniques and standards.

Computers and software used in environmental inspections, data tracking, and investigations.

Principles of personnel administration including staff supervision, training and performance evaluation.

Ability to:

Plan, develop, organize, implement, and direct regulatory compliance programs and staff to ensure compliance with State and Federal programs.

Supervise and train staff to perform a variety of environmental regulatory compliance, investigations, inspections, and enforcement activities.

QUALIFICATIONS:

Ability to, Continued:

Supervise the development and implementation of training programs and public information efforts related to regulatory compliance.

Analyze and interpret environmental data, reaching valid conclusions.

Prepare a variety of technical reports, which include use of word processing and spreadsheet software.

Develop, interpret and apply policies, regulations, and procedures regarding environmental inspections and compliance for pretreatment systems and storm water.

Develop budget and conduct fiscal monitoring activities.

Prepare or oversee the preparation of a variety of technical program reports.

Operate a variety of office and technical equipment and computers in the performance of environmental compliance inspections and investigations.

Effectively represent the Environmental Services Section of the Water Quality Control Division in contacts with the public, businesses, engineers, architects, and other City staff.

Establish and maintain cooperative working relationships.

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 (3) years of experience performing a variety of environmental investigations and inspections in the analysis of water, wastewater or other environmental samples including at least one year of lead or supervisory experience.

Training:

Education equivalent to completion of college degree in biology, chemistry, physics, environmental science.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California Driver's license.

Possession of a valid Grade II Environmental Compliance Inspector Certificate issued by the California Water Environmental Association at time of final filing.

Completion of Hazardous Material Forty-Hour First Responder Training, as prescribed by the State Office of Emergency Services within two (2) years of appointment.

WORKING CONDITIONS

Environmental Conditions:

Work is usually performed in office environment; some work is performed in varying temperatures and humidity; some exposure to dust; possible exposure to hazardous waste and materials; possible exposure to gases, fumes, and a variety of pollutants; contact with other staff and the public.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time, and frequently standing and walking.

EXHIBIT "A-3"

CITY OF MODESTO
No. 3269

JULY 2003

LABORATORY & ENVIRONMENTAL MONITORING 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

Supervise, plan, direct, and coordinate the City's Laboratory and Environmental Monitoring Program; to maintain the consistency of the City's Laboratory with State and Federal mandates, approved standards and quality assurance and control; to maintain consistency of the City's Environmental Monitoring Programs with State and Federal mandates; to direct the implementation of required sampling and testing; to direct the activities related to state, Federal and local regulations regarding stormwater and pretreatment sampling and industrial discharges into the City's wastewater collection system; to direct the monitoring, sampling and record keeping associated with compliance with discharge permits; to coordinate the development and maintenance of a data base regarding Industrial, pretreatment, Water Quality processes, and Water Quality discharge samples and testing, to correspond and write required documents associated with NPDES discharges; and to do related work as required.

DISTINGUISHING CHARACTERISTICS

This is a single-position, first level supervisor for the Laboratory and Environmental Monitoring functions. The incumbent is responsible for supervising two major programs consisting of laboratory and environmental sampling and directing the work of assigned staff, ensuring that programs are fully implemented and meet required standards and mandates. In addition, the incumbent has a major role in the development of new markets for water quality and water laboratory services.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Deputy Director of Operations and Maintenance.
Exercises direct and indirect supervision over technical and clerical support staff.

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

Direct Industrial and Water Quality Control sampling and testing programs and Laboratory Staff in accordance with regulations, standards, and quality assurance requirements.

Coordinate the development of additional markets for existing laboratory services and recommend further testing apparatus be purchased based on cost effectiveness or the need to meet regulatory requirements.

Coordinate with the Water Operations Division and other existing clients to make sure client monitoring, sampling, testing, and reporting needs are being met.

Supervise, evaluate and coach assigned staff including maintaining discipline and ensuring all rules, policies and procedures are enforced; advise and counsel subordinates; follow up on problems and complaints; participate in selection of staff.

Develop programs for the implementation and enforcement of environmental monitoring, sampling, and testing programs to protect collection systems, groundwater, and receiving waters in compliance with state, Federal, and local laws, regulations, and ordinances.

Develop and manage program budgets, projecting future goals and projects based on program elements, ensuring proper spending and funding.

Oversee development and submission of required reports for State and Federal regulatory agencies associated with programs.

Monitor and coordinates contractual service activities related to effluent discharges, storm water, and pretreatment sampling activities.

Meet with industry managers to discuss current pretreatment sampling needs and pending regulations.

Oversee the development and maintenance of a laboratory, water quality control, and environmental monitoring database.

ESSENTIAL FUNCTIONS, Continued:

Meet with various City and community groups and committees to discuss Laboratory and environmental monitoring issues.

MARGINAL FUNCTION STATEMENTS:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Program planning and development methods and techniques.

Principles of budget development and fiscal monitoring.

Principles and practices of water/wastewater laboratory operations, maintenance, and services.

Approved related laboratory practices and procedures.

Pertinent State and Federal environmental health and water quality regulations.

Policies and procedures of the City's Environmental Compliance Program.

State and Federal laws, rules, regulations, requirements and procedures governing laboratory and pretreatment, and storm water sampling including applicable local ordinances, and related State and Federal regulations.

Chemical, biological, physical, and environmental sciences.

Principles and practices of environmental sampling and testing, methods and practices.

Functions and operations of State and Federal environmental health and regulatory agencies.

QUALIFICATIONS:

Knowledge of, Continued:

Sampling techniques and standards.

Computers and software used in laboratory testing and environmental sampling.

Principles of personnel administration including staff supervision, training, and performance evaluation.

Ability to:

Plan, develop, organize, implement, and direct laboratory and environmental monitoring programs and staff to ensure compliance with State and Federal programs.

Supervise and train staff to perform a variety of laboratory and environmental monitoring and associated activities.

Analyze, and interpret environmental data, reaching valid conclusions.

Prepare a variety of technical reports, which includes use of word processing and spreadsheet software.

Develop budget and conduct fiscal monitoring activities.

Prepare or oversee the preparation of a variety of technical program reports.

Operate a variety of office and technical equipment and computers in the performance of laboratory sampling and testing and environmental monitoring.

Effectively represent the Environmental Services Section of the Water Quality Control Division in contacts with the public, businesses, engineers, architects, and other City staff.

Establish and maintain cooperative working relationships.

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 (3) years of experience performing chemical, biological, or microbiological analysis and/or a variety of laboratory work including environmental monitoring, sampling, and analysis of water, wastewater or other environmental samples, including at least one year of lead or supervisory experience

Training:

Education equivalent to completion of college degree in biology, chemistry, biochemistry, or closely related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California Driver's license.

Possession of a valid CWEA Grade II Laboratory Certificate within two and a half years (2.5 years) years of appointment. Possession of a CWEA Grade III Laboratory Certificate within four (4) years of appointment.

Completion of Hazardous Material Forty-Hour (40) First Responder Training, as prescribed by the State Office of Emergency Services within two (2) years of appointment.

WORKING CONDITIONS

Environmental Conditions:

Work is usually performed in office environment; some work is performed in varying temperatures and humidity; some exposure to dust; possible exposure to hazardous waste and materials; possible

Environmental Conditions, Continued:

exposure to gases, fumes, and a variety of pollutants; contact with other staff and the public.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time, and frequently standing and walking.

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-370

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-178, WHICH APPROVED THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION MEMORANDUM OF UNDERSTANDING (MCMA MOU), TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CREATE THE SALARY RANGES FOR THE CLASSIFICATIONS OF REGULATORY COMPLIANCE SUPERVISOR AND FOR LABORATORY AND ENVIRONMENTAL MONITORING SUPERVISOR

WHEREAS, the City Council desires to amend Resolution No. 2003-178 (MCMA MOU),

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2003-178. Exhibit "A" of Resolution No. 2003-178 entitled "City of Modesto Class Range Table Represented Management And Confidential Non-Sworn Classes Effective June 24, 2003," 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 July 8, 2003," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" creates the salary range for Regulatory Compliance Supervisor and Laboratory & Environmental Monitoring Supervisor at Range 434.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved

its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
 CLASS RANGE TABLE
 REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
 Effective July 8, 2003

EXHIBIT "A"

RANGE	TITLE
403	Administrative Office Assistant I (Confidential)
407	Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Senior Personnel Clerk
414	
415	Senior Administrative Office Assistant (Confidential)
416	
417	
418	Legal Secretary
419	Police Training and Records Technician (Confidential) Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician Systems Technician
421	
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I

RANGE TITLE

423 Custodian Supervisor

424 Assistant Planner
 Buyer

425 Administrative Analyst I

426 Police Support Services Supervisor
 Stores Manager

427 Assistant City Clerk/Auditor
 Legal Services Administrator
 Workers' Compensation Claims Examiner II

428 Accountant II (Represented)
 Customer Services Specialist
 Customer Services Supervisor
 Senior Buyer

429

430 Associate Planner
 Events Supervisor I
 Junior Civil Engineer
 Senior Crime Analyst
 Social Services Program Supervisor

431 Administrative Analyst II
 Assistant Risk Manager
 Budget Analyst I
 Geographic Information Systems Analyst
 Personnel Analyst
 Recycling Program Coordinator
 Senior Community Development Program Specialist
 Systems Analyst

432 Communications Specialist
 Neighborhood Preservation Supervisor

RANGE TITLE

432 (continued)

Operations and Maintenance Supervisor
Recreation Supervisor II
Senior Accountant
Water Quality Control Maintenance Supervisor
Water Quality Control Operations Supervisor
Youth Program Supervisor

433 Organizational Development Specialist

434 Arborist

Assistant Civil Engineer
Assistant Traffic Engineer
Budget Analyst II
Electrical Supervisor
Events Supervisor II
Geographic Information Systems Coordinator
Laboratory & Environmental Monitoring Supervisor
Operations Supervisor
Regulatory Compliance Supervisor
SCADA Supervisor
Senior Housing Rehabilitation Specialist
Senior Programmer Analyst

435 Business Analyst
Cultural Services Manager
Integrated Waste Specialist
Management Analyst
Senior Personnel Analyst

436 Senior Planner

437

438 Budget Officer
Communications and Marketing Manager
Development and Operations Coordinator
Financial/Investment Officer
Housing Program Supervisor
Land Surveyor
Property Agent
Purchasing Supervisor
Senior Business Analyst

RANGE	TITLE
-------	-------

438 (continued)

Systems Engineer
Transportation Planner

439 Administrative Services Officer
Community Facilities Districts Administrative Officer

440 Associate Civil Engineer
Associate Traffic Engineer

441 Airport Manager
Building Maintenance Superintendent
Fire Marshal
Fleet Manager
Golf Services Manager
Parks Operations Superintendent
Parks Planning and Development Manager
Police Records Manager
Recreation Superintendent
Solid Waste Program Manager
Streets Engineer
Transit Manager
Urban Forestry Superintendent
Wastewater Collections Superintendent
Water Superintendent

442 Customer Services Division Manager
Information Services Manager
Manager of Budget and Financial Analysis
Supervising Building Inspector
Supervising Construction Inspector

443

444 Business Development Manager
Deputy Chief Building Official
General Services Manager
Principal Planner

445 Accounting Division Manager
Housing and Neighborhoods Division Manager

RANGE	TITLE
-------	-------

446 Water Quality Control Superintendent

447 Business Development Division Manager
Chief Building Official
Planning Division Manager
Senior Civil Engineer
Traffic Engineer

448

449

450

451

452

453

455

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-371**

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 95-26 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ADD ENVIRONMENTAL COMPLIANCE INSPECTOR I (RANGE 124), ENVIRONMENTAL COMPLIANCE INSPECTOR II (RANGE 128) AND SENIOR ENVIRONMENTAL COMPLIANCE INSPECTOR (RANGE 132).

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 95-26,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 95-26. Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective January 10, 1995," attached to Resolution No. 95-26, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective July 8, 2003," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds Environmental Compliance Inspector I (Range 124), Environmental Compliance Inspector II (Range 128) and Senior Environmental Compliance Inspector (Range 132) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The forgoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective July 8, 2003

EXHIBIT "A"

RANGE	TITLE
101	Custodian I Maintenance Aide
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	
110	Animal Control Officer I Security Officer Equipment Service Worker I Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Evidence and Property Specialist Police Clerk II
112	
113	Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Worker II Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Animal Control Officer II Assistant to the Events Coordinator Code Enforcement Officer I Community Service Officer I Planning Technician I 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	Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Planning Technician II Public Information Technician Wastewater Treatment Plant Operator

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Meter Reader Crewleader Senior Equipment Operator Traffic Painter Crewleader Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Coach Mechanic Cross Connection Specialist Fire Equipment Mechanic Programmer Analyst I 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
125	Crime Analyst
126	Building Inspector I Coach Mechanic Crewleader Electrician 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 Environmental Compliance Inspector II Instrument Repair Technician Programmer Analyst II Sr. Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Sr. Civil Engineering Assistant
132	Sr. Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-372**

**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 CREATED. The Position Classification Plan of the City of Modesto is hereby amended to establish the following classifications:

Water Resource Specialist I

Water Resource Specialist II

As a result of changes in the State requirement to require employees involved in the operation and maintenance of the City's drinking water system to be certified, Water Resources Specialist I (Range 120) and Water Resources Specialist II (Range 124), assigned to the General Non Sworn Bargaining Unit, and shown on attached **Exhibit "A"**, which is hereby made a part of this resolution by reference, is hereby approved and made a part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classification:

Police Civilian Supervisor

This classification is being amended as a result of a title change from Police Support Services Supervisor to Police Civilian Supervisor. The specification for the classification of Police Civilian Supervisor, as shown as **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 4. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The forgoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

WATER RESOURCE SPECIALIST I/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 provide technical support, reporting and analysis for environmental compliance; to perform research, statistical and other analytical work; to serve as a liaison between the City and state/federal regulatory agencies in the areas pertaining to environmental compliance for water quality.

DISTINGUISHING CHARACTERISTICS

Water Resource Specialist I – This is the entry-level class in the Water Resource Specialist series. This class is distinguished from the Water Resource Specialist II by the performance of more routine tasks and duties assigned to the position. Since this class is typically used as a training class, employees may have limited or no directly related work experience.

Water Resource Specialist II – This is the full journey level class within the Water Resource Specialist series. This class is distinguished from the Water Resource Specialist I by the performance of the full range of duties as assigned. 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. Positions in this class are flexibly staffed and are normally filled by advancement from the I level class after a minimum of 18 months. If filled from the outside, prior work experience directly related to the area of assignment is required.

SUPERVISION RECEIVED AND EXERCISED

Water Resource Specialist I

Receives direction from and reports to management staff.

Water Resource Specialist II

Receives general direction from and reports to 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:

Preparation of regulatory reports, including drinking water assessments and testing waivers.

Serve as liaison to water quality testing laboratories; schedule water quality testing by site and prepare documentation related to testing, such as chain of custody.

Investigate, analyze, develop and prepare special studies or projects, as requested.

Answer questions and provide information/reports for release to the public, outside agencies and City staff, including preparation of the Consumer Confidence Report and other public notices and reports.

Assist with documentation and reporting related to legal actions.

Analyze reports and flag discrepancies and/or issues of concern.

Research and advise staff on equipment purchases, write specifications or justifications, and order materials or services.

Maintain databases pertinent to the management of water quality, disinfection, treatment, operations and distribution.

In Addition for the Specialist II:

Develop and analyze databases pertinent to the management of water quality, disinfection, treatment, operations and distribution.

Investigate water quality problems in the distribution system.

Monitor system flow and pressure in response to consumer demands.

Marginal Functions:

Perform related duties, as assigned.

QUALIFICATIONS

Knowledge of:

Modern office procedures, methods and computer equipment.

Technical and public report writing procedures.

Statistical methods and methods of graphic presentation.

Principles of chemistry, biology and related sciences as they pertain to Environmental compliance.

Computer applications including database, spreadsheet and word processing.

Knowledge of Water Resource Specialist II: (In addition to the qualifications for Specialist I)

Applicable Federal, State and local laws, codes and regulations.

Procedures and methods for environmental compliance monitoring.

Procedures and policies relating to the public bidding process.

Database management of water quality, disinfection, treatment, operations and distribution data.

Ability to:

Learn procedures and methods used in environmental compliance monitoring.

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

Analyze facts and make sound recommendations.

Use and operate a personal computer including applicable software.

Ability to (Continued):

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

Schedule and deliver water certification training.

Communicate clearly and concisely, both orally and in writing.

Ability to Water Resource Specialist II: (In addition to the qualifications for Specialist I)

Identify and respond to public issues and concerns.

Determine proper chemical dosage rates for wellhead disinfection.

Interpret and apply Federal, State and local policies, procedures, laws and regulations.

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

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:

Water Resource Specialist I

Experience:

One year of increasingly responsible administrative, analytical and/or technical experience with a private or public agency, preferably in the area of environmental compliance, or a related field.

Training:

An Associate of Science Degree from an accredited college or a Certificate in Water Technology that includes 15 units of college coursework from an accredited college in physical, chemical, or biological science, or a related field.

License or Certificate:

Ability to obtain a minimum of a Grade I Water Distribution Certificate, as issued by the California Department of Health Services, within eighteen months of date of hire. Failure to obtain this certification will constitute grounds for dismissal from City service. Possession of a Grade I Water Treatment Certificate is desirable.

Possession of, or the ability to obtain, an appropriate California driver's license.

Water Resource Specialist II

Experience:

Two years of increasingly responsible administrative, analytical and/or technical experience with a private or public agency, preferably in the area of environmental compliance, or a related field.

-OR-

Eighteen (18) months as a Water Resource Specialist I with the City of Modesto.

Training:

An Associate of Science Degree from an accredited college or a Certificate in Water Technology that includes 15 units of college coursework from an accredited college in physical, chemical, or biological science, or a related field.

License or Certificate:

Possession of a minimum of a Grade I Water Treatment Certificate and a Grade II Water Distribution Certificate, as issued by the California Department of Health

License or Certificate (Continued):

Services. Possession of higher-level certification (Grades III – IV) is highly desirable.

Possession of, or the ability to obtain, an appropriate California driver's license.

WORKING CONDITIONS

Environment Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting prolonged periods of time and for traveling from site to site.

POLICE CIVILIAN 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

Plan, organize and supervise the operations of a shift or unit or clerical staff serving in support functions, and to perform a variety of community relations, administrative and technical duties. Works a variety of shifts including days, evenings, weekends and holidays.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Information Services Division Lieutenant or other management staff. Exercises direct and indirect supervision over subordinate, property, evidence and identification technicians, clerical staff and community services officers.

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

Essential Functions:

Supervise, evaluate and coach assigned staff including maintaining discipline and ensuring all rules, policies and procedures are enforced; advise and counsel subordinates; follow up on problems and complaints; participate in selection of staff.

Schedule personnel for shifts, including contacting off-duty employees to make necessary adjustments in shift schedules to fill vacancies, determining overtime needs and authorizing expenditure.

Supervise the training of employees in procedures, automated systems, and the use of equipment.

Recommend, coordinate and implement policy and procedures.

Participate in the development, supervision and maintenance of records and files necessary to the Police Records Section functions.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - (Continued)

Investigate internal or citizen problems and complaints and respond in a manner resulting in appropriate resolution, and write reports related to the internal investigation of complaints.

Manage, facilitate and mediate workplace conflict issues.

Review, implement and interpret operating procedures and make recommendations for revisions to procedure manuals and other training materials as necessary.

Maintain and coordinate updates of automated files for records management system.

Supervise the accountability of incoming fees.

Compile and edit various monthly and annual reports including statistical, internal and administration reports.

Work with other department personnel, city staff and the public in the areas of assigned functional responsibilities.

Monitor all statistical reporting to determine any discrepancies and correct them prior to public announcements or state reporting.

Act as Custodian of Records as assigned, including court appearances for both civil and criminal cases.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles of supervision, training and performance evaluation.

Computer systems, including CLETS and Police network.

Principles and practices of office management, record keeping and scheduling.

QUALIFICATIONS – (Continued)

Knowledge of:

Principles of police records management and maintenance.

Departmental rules and regulations and any governing MOU'S.

California Department of Justice policies, principles, codes, regulations and laws governing records management, and all federal requirements.

Criminal law with particular reference to the data needed for prosecution and recording of information, including rules of identification and evidentiary requirements, record keeping, computer entries and release of information.

A variety of additional codes, specifically Code of Civil Procedure, Government Code, Health and Safety Code, and Vehicle Code as they apply to duties within the division.

Ability to:

Supervise, train, plan, organize and review the work of assigned staff.

Exercise independent judgment and make sound decisions in emergency situations.

Communicate clearly and concisely, both orally and in writing.

Handle simultaneous events effectively.

Operate computer equipment and other office equipment quickly and accurately.

Maintain attention to detail despite frequent interruptions.

Work cooperatively with other departments, outside agencies and the public including the ability to resolve conflicts.

Compile and maintain complex and extensive records and prepare reports.

QUALIFICATIONS – (Continued)

Ability to:

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:

Four years of increasingly responsible experience in a law enforcement agency performing technical support duties, including one year of supervisory or lead responsibility.

Education:

Equivalent to an Associate of Arts Degree in Business Administration, Behavioral Science, Criminal Justice or a related field.

License or Certificate:

Successful completion of a POST certified Supervisory course within one year of appointment.

Successful completion of the POST Records management course within two years of appointment.

WORKING CONDITIONS:

Environmental Conditions:

Office environment; exposure to computer screens.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

Work Assignment:

Must be willing to work various shifts as assigned including weekends and holidays.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-373**

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 95-26 TO AMEND THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR THE CLASSIFICATIONS OF WATER RESOURCE SPECIALIST I AND WATER RESOURCE SPECIALIST II EFFECTIVE JULY 8, 2003.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 95-26,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 95-26. Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective January 10, 1995," attached to Resolution No. 95-26, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective July 8, 2003" which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" revises the Class Range Table to establish a salary range for Water Resource Specialist I (Salary Range 120) and Water Resource Specialist II (Salary Range 124).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The forgoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective July 8, 2003

Exhibit "A"

RANGE	TITLE
101	Custodian I Maintenance Aide
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	
110	Animal Control Officer I Security Officer Equipment Service Worker I Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Evidence and Property Specialist Police Clerk II
112	
113	Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Worker II Maintenance Worker II Production Technician Storeskeeper

City of Modesto
Class Range Table – General Non-Sworn Classes
Page 2

RANGE	TITLE
115	Accounting Technician Animal Control Officer II Assistant to the Events Coordinator Code Enforcement Officer I Community Service Officer I Planning Technician I 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	Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Planning Technician II Public Information Technician Wastewater Treatment Plant Operator

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Meter Reader Crewleader Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Coach Mechanic Cross Connection Specialist Fire Equipment Mechanic Industrial Waste Inspector I Programmer Analyst I 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 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 Coach Mechanic Crewleader Electrician Housing Financial Specialist Housing Rehabilitation Specialist I Industrial Waste Inspector II

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Instrument Repair Technician Programmer Analyst II Sr. Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Hazardous Material Program Coordinator Housing Rehabilitation Specialist II Project Coordinator
131	Sr. Civil Engineering Assistant
132	
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-373A**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2003-330
TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO RETITLE
THE POLICE SUPPORT SERVICES SUPERVISOR TO POLICE CIVILIAN
SUPERVISOR**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2003-330,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2003-330. Exhibit "A" entitled "City of Modesto Class Range Table Represented Management And Confidential Non-Sworn Classes Effective June 24, 2003", 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 July 8, 2003, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" changes the title of the former Police Support Services Supervisor classification to Police Civilian Supervisor.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 8, 2003.

The forgoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
 CLASS RANGE TABLE
 REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
 Effective July 8, 2003

Exhibit "A"

RANGE	TITLE
403	Administrative Office Assistant I (Confidential)
407	Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Senior Personnel Clerk
414	
415	Senior Administrative Office Assistant (Confidential)
416	
417	
418	Legal Secretary
419	Police Training and Records Technician (Confidential) Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician Systems Technician
421	
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I

RANGE TITLE

423 Custodian Supervisor

424 Assistant Planner
Buyer

425 Administrative Analyst I

426 Police Civilian Supervisor
Stores Manager

427 Assistant City Clerk/Auditor
Legal Services Administrator
Workers' Compensation Claims Examiner II

428 Accountant II (Represented)
Customer Services Specialist
Customer Services Supervisor
Senior Buyer

429

430 Associate Planner
Events Supervisor I
Junior Civil Engineer
Senior Crime Analyst
Social Services Program Supervisor

431 Administrative Analyst II
Assistant Risk Manager
Budget Analyst I
Geographic Information Systems Analyst
Personnel Analyst
Recycling Program Coordinator
Senior Community Development Program Specialist
Systems Analyst

432 Communications Specialist
Industrial Waste Supervisor

RANGE TITLE

432 (continued)

Neighborhood Preservation Supervisor
Operations and Maintenance Supervisor
Recreation Supervisor II
Senior Accountant
Water Quality Control Maintenance Supervisor
Water Quality Control Operations Supervisor
Youth Program Supervisor

433 Organizational Development Specialist

434 Arborist
Assistant Civil Engineer
Assistant Traffic Engineer
Budget Analyst II
Electrical Supervisor
Events Supervisor II
Geographic Information Systems Coordinator
Operations Supervisor
SCADA Supervisor
Senior Housing Rehabilitation Specialist
Senior Programmer Analyst

435 Business Analyst
Cultural Services Manager
Integrated Waste Specialist
Management Analyst
Senior Personnel Analyst

436 Senior Planner

437

438 Budget Officer
Communications and Marketing Manager
Development and Operations Coordinator
Financial/Investment Officer
Housing Program Supervisor
Land Surveyor
Property Agent
Purchasing Supervisor
Senior Business Analyst

RANGE TITLE

438 (continued)

Systems Engineer
Transportation Planner

439 Administrative Services Officer
Community Facilities Districts Administrative Officer

440 Associate Civil Engineer
Associate Traffic Engineer

441 Airport Manager
Building Maintenance Superintendent
Fire Marshal
Fleet Manager
Golf Services Manager
Parks Operations Superintendent
Parks Planning and Development Manager
Police Records Manager
Recreation Superintendent
Solid Waste Program Manager
Streets Engineer
Transit Manager
Urban Forestry Superintendent
Wastewater Collections Superintendent
Water Superintendent

442 Customer Services Division Manager
Information Services Manager
Manager of Budget and Financial Analysis
Supervising Building Inspector
Supervising Construction Inspector

443

444 Business Development Manager
Deputy Chief Building Official
General Services Manager
Principal Planner

445 Accounting Division Manager
Housing and Neighborhoods Division Manager

RANGE TITLE

446 Water Quality Control Superintendent

447 Business Development Division Manager
Chief Building Official
Planning Division Manager
Senior Civil Engineer
Traffic Engineer

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**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-374**

A RESOLUTION PLACING A PROPOSED CHARTER AMENDMENT ON THE BALLOT FOR THE REGULAR MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2003, IN THE CITY OF MODESTO FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF SAID CITY A PROPOSAL, BY MOTION OF THE COUNCIL, TO ADD SECTION 503 TO THE CHARTER RELATING TO LIMITATION OF TERMS OF OFFICE.

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 4, 2003, a proposal to add Section 503 to the Charter of the City of Modesto as set forth below, and hereby designates and refers to said proposal to be set forth in the form of a ballot measure as hereinafter prescribed for use at said regular municipal election:

PROPOSED AMENDMENT
TO THE
CHARTER OF THE CITY OF MODESTO

Regular Municipal Election

November 4, 2003

The Council of the City of Modesto hereby proposes, on its own motion, to add Section 503 to the Charter of the City of Modesto as follows:

MEASURE ____.

SECTION 503. LIMITATION OF TERMS OF OFFICE.

No person elected to the office of Councilmember or Mayor for two (2) consecutive terms shall again be eligible to hold that same office until one (1) full intervening term of four (4) years has elapsed. The offices of Mayor and Councilmember shall be considered separate offices for the purpose of applying this provision so that service of two (2) full terms in one (1) office shall not act as a bar to service of two (2) full terms in the other. If a person serves a partial term in excess of twenty-six (26) months, it shall be considered a full term for the purpose of this provision. This limitation applies prospectively to terms to which persons have been elected commencing with the 2003 general municipal election.

SECTION 2. That it hereby orders the City Clerk to submit the Charter amendment to the voters at a regular election on November 4, 2003.

SECTION 3. That the measure to appear on the ballot is as follows:

Measure ____ Shall the Modesto City Charter be amended to impose prospectively a two-term limit on the offices of Mayor and Councilmember?	Yes	
	No	

SECTION 4. That the County Election Department is authorized to canvass the returns of the Regular 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.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 6. 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 8th day of July, 2003, by Councilmember Conrad, 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: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-375**

**A RESOLUTION TRANSMITTING A COPY OF A BALLOT MEASURE
RELATING TO A CHARTER AMENDMENT IMPOSING A LIMITATION ON
TERMS OF OFFICE TO THE CITY ATTORNEY FOR IMPARTIAL
ANALYSIS.**

WHEREAS, Section 9280 of the State Elections Code provides that whenever any City measure qualifies for a place on the ballot, the governing body may direct the City Clerk to transmit a copy of the measure to the City Attorney for preparation of an impartial analysis, and

WHEREAS, a copy of the ballot measure relating to the proposed Charter amendment is included in Resolution No. 2003-374, a copy of which is attached,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed to transmit a copy of the above-described measure to the City Attorney for preparation of an impartial analysis explaining the effect of the measure.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to handle the printing and distribution of the impartial analysis.

BE IT FURTHER RESOLVED that the City Attorney is hereby authorized to prepare the impartial analysis of each of the above-described measures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Conrad, 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: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-376**

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 PROPOSED CHARTER AMENDMENT IMPOSING A LIMITATION ON TERMS OF OFFICE.

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 4, 2003, a proposal to add Section 503 to Charter of the City of Modesto imposing a limitation on terms of office,

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 argument 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 8th day of July, 2003, by Councilmember Conrad, 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: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-377**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED
DEVELOPMENT ZONE, P-D(561) (TUTINO)**

WHEREAS, a verified application for an amendment to Section 19-3-9 of the Zoning Map was filed by Mario Tutino on November 21, 2002, to reclassify Planned Development Zone, P-D(550) and a portion of Planned Development Zone P-D(416), to Planned Development Zone, P-D(561), to allow a three-story hotel, property located at the northwest corner of West Orangeburg and Martin Avenues, described as follows:

P-D(550) to P-D (561)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Northwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lot A as shown on that certain map filed for record on February 17, 1988 of Orangeview Manor in Book 32 of Maps, Page 67; and all of Parcel 4 on that certain Parcel Map filed for record on June 30, 1987, in Book 39 of Parcel Maps, Page 67;

Also including all of Teresa Street and all Martin Avenue and the northerly half of West Orangeburg Avenue, all being immediately adjacent to the above described property.

Portion of P-D(416) to P-D (561)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Northwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Parcel 3 on that certain Parcel Map filed for record on June 30, 1987, in Book 39 of Parcel Maps, Page 67;

Also including the northerly half of West Orangeburg Avenue, all being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on June 2, 2003, 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. 2003-33, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed hotel is consistent with the current General Plan land use designation for the site.
2. The hotel is compatible with the adjacent land uses along Orangeburg Avenue.

WHEREAS, said matter was set for a public hearing of the City Council to be held on July 8, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Mario Tutino 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. 2003-33 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3315-C.S. on the 8th of July, 2003, reclassifying the above-described property from Planned Development Zone P-D(550) and Planned Development Zone, P-D(416), to Planned Development Zone, P-D(561).

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(561), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Extended Stay America" 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 Neighborhoods Director.
3. Sequoia Sempervirens, "Soquel or "Aptos Blue," 24-inch-box size, at 12-foot on center spacing, shall be installed along the north and east property lines as indicated on the stamped approved plan and required by the Parks, Recreation and Neighborhoods Director. The Sequoia Sempervirens installed along the east property line shall be placed on the street-side of the wall required by Condition of Approval Number 5.
4. Prior to the issuance of Certificate of Occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.
5. Fences or walls shall be constructed prior to occupancy and shall be as follows:
 - a. An eight-foot-high decorative masonry wall on the north property line, where the property is adjacent to residences.
 - b. A six-foot-high decorative masonry wall on the north property line with creeping vine on both sides, where the property is adjacent to Teresa Street.
 - c. A six-foot-high decorative masonry wall, five feet behind property line with landscaping as required by the Parks, Recreation and Neighborhoods Director and creeping vine on both sides, where the property is adjacent to Martin Avenue.
6. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.
7. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.

8. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/ developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.
9. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.
10. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
11. 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 stormwater 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.
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.
13. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.
14. All signs shall comply with the sign requirements of the C-3 Zone.
15. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.

16. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction on the in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
17. Prior to the issuance of a building permit, an additional five feet of right-of-way shall be dedicated along the Martin Avenue frontage of the property.
18. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
19. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
20. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.
21. The developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of the property to the northwest, substantially as shown in red on the plot plan.
22. Prior to the issuance of a building permit, the applicant shall conduct a sewer capacity study of the line in west Orangeburg Avenue to determine its capacity to serve this project to the satisfaction of the Engineering and Transportation Director.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(561):

The entire construction program be accomplished in one phase, construction to begin on or before July 8, 2007, and completion to be not later than July 8, 2008.

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(561), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

APPROVED AS TO LEGAL DESCRIPTION

By: Steve Mitchell for GO
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-378**

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 19-3-9 OF THE ZONING MAP TO REZONE PLANNED DEVELOPMENT ZONE, P-D(550) AND A PORTION OF PLANNED DEVELOPMENT ZONE P-D(416), TO PLANNED DEVELOPMENT ZONE, P-D(561), PROPERTY LOCATED ON THE NORTHWEST CORNER OF WEST ORANGEBURG AND MARTIN AVENUES (TUTINO).

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, Mario Tutino has proposed that the zoning designation for property located on the northwest corner of West Orangeburg and Martin Avenues be amended to rezone Planned Development Zone, P-D(550) and a portion of Planned Development Zone P-D(416), to Planned Development Zone, P-D(561), in the City of Modesto, (“the project”) to allow for a three-story hotel, 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 2003-33 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezone to P-D(561) 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, the City caused public hearing notices of the City's intent to make a finding that the proposed project conforms with the Master EIR to be sent to affected by the rezone, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on July 8, 2003, 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 from to P-D(561) 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 FMEIR Update (SCH No. 1999082041) as being within the scope of the FMEIR Update.

2. That the project will have no new significant effects on the environment not identified or examined in the FMEIR Update, 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 FMEIR Update will be sufficient for this project.
5. That all feasible mitigation measures set forth in the FMEIR Update which are appropriate to the project shall be incorporated in the project.
6. That the Initial Study EA/C&ED 2003-33 provides substantial evidence to support findings 1 thru 5, above.

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 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher, Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-33

City of Modesto
Initial Study

PD (Extended Stay America)
EA/C&ED 2003-33
April 17, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
PD (Extended Stay America)
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:
Northwest corner of Orangeburg and Martin Avenues
- E. Project Sponsor:
Mario Tutino, 151 Kalmus Drive, Suite H-8, Costa Mesa California 92626
- F. General Plan Designation:
Mixed Use
- G. Current Zoning:
P-D (416) and P-D (550)
- H. Description of Proposed Project:
This is an application to rezone the southernmost section of P-D (416) and P-D (550) to planned development to allow for the development of a three story, 40,812 square feet, 104 room, Extended Stay America Hotel with 129 parking stalls. The site plan adheres to all City standards with regard to setbacks and parking provision. Each room is proposed to include a kitchenette.

- I. Surrounding land uses:
The project is surrounded by Residential to the north and east, Orangeburg Avenue to the South and West, and a hotel to the northwest.
- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as mixed-use. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further mixed-use development and thus, noise generation within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. This project is consistent with the General Plan in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased

Demand for Water Supplies (pages V-5-1 through IV-5-13) are therefore still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as mixed-use. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. This project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project, being non-residential, would not generate any additional demand for schools. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity(pages V-17-1 through V-17-12) are therefore still valid.

R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:


Josh Bridegroom,
Assistant Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-379**

**A RESOLUTION APPROVING THE 2002 ANNUAL GENERAL PLAN REPORT
AND AUTHORIZATION FOR STAFF TO SUBMIT THE ANNUAL REPORT TO
THE STATE OFFICE OF PLANNING AND RESEARCH AND THE STATE
HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT.**

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report (“EIR”) for the Urban Area General Plan (SCH #92052017), and

WHEREAS, a new General Plan for the City of Modesto entitled “City of Modesto Urban Area General Plan”, as recommended by the Modesto City Planning Commission, was adopted by the Council of the City of Modesto by Resolution No. 95-409 on August 15, 1995, and

WHEREAS, said General Plan has been 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 and 2003-122, copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65400(b)(1) mandates that all planning agencies submit to their legislative bodies, the Office of Planning and Research, and the Department of Housing and Community Development an annual report on the status of the general plan and progress in its implementation, including the progress in meeting its share of regional housing needs and local effort to remove governmental constraints to the maintenance improvement and development of housing, and

WHEREAS, the Community & Economic Development Department has investigated and summarized all planning activity conducted in the year 2002 and prepared such a report, and

WHEREAS, on May 19, 2003, the Planning Commission held a duly noticed meeting in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed 2002 Annual General Plan Report, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2003-32, recommending to the City Council approve the 2002 Annual General Plan report and its submittal to the State Office of Planning and Research and the Department of Housing and Community Development, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on June 24, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth 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 2002 Annual General Plan Report,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2002 Annual General Plan Report and authorizes staff to submit said report to the State Office of Planning and Research and the Department of Housing and Community Development as shown on Exhibit "A" attached hereto 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 8th day of July, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahir
JEAN ZAHIR, City Clerk

(SEAL)

APPROVED AS TO FORM:

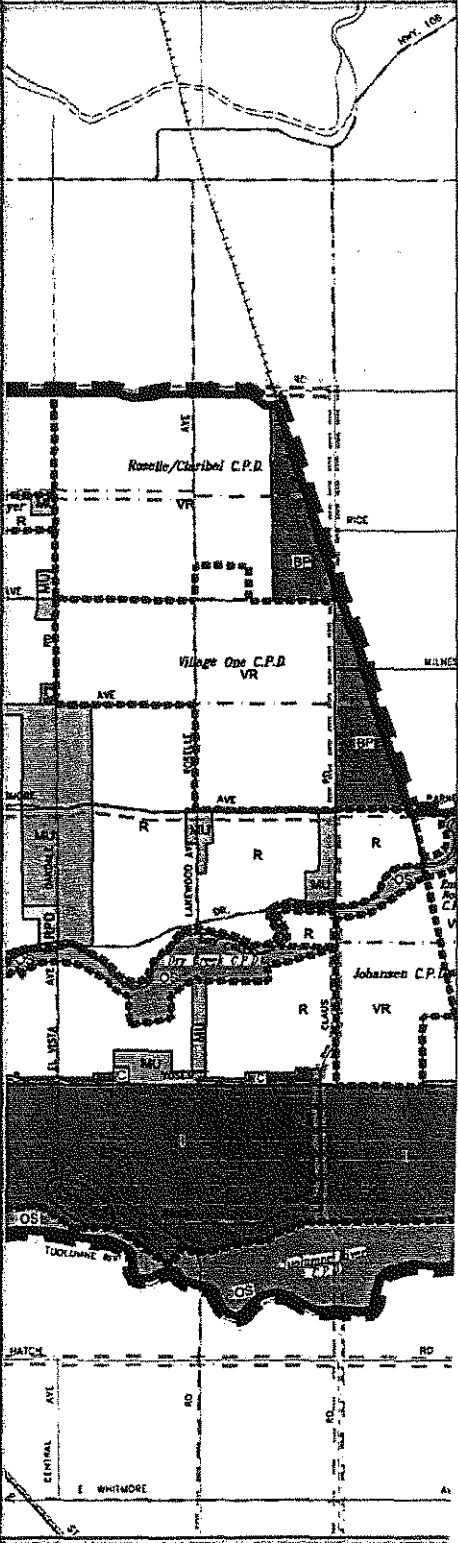
By: Michael D. Milich
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

2002 ANNUAL GENERAL PLAN REPORT

This Exhibit is included with the City Council Agenda Packet.
Please Refer to Attachment "A"

Annual General Plan Progress Report 2002



2002 Annual Report on the General Plan

Jurisdiction Name and Address:

Modesto Urban Area General Plan
City of Modesto
1010 Tenth Street, Suite 3300
P.O. Box 642
Modesto, CA 95353

Each Planning agency shall provide an annual report to the legislative body, the Office of Planning and Research, and the State Department of Housing and Community Development on the status of the General Plan and progress in its implementation, including the process in meeting its share of regional housing needs and local efforts to remove governmental constraints to the maintenance, improvement and development of housing. This Report was prepared in a manner consistent with information provide by the State Office of Planning and Research. As there are no specific forms available, it is presented to a large extent, in a textual format.

To the best of my knowledge, the representations and disclosures contained herein are true and correct.

Date:

Signature of Authorized Representative

Director, Community and Economic Development Department
Title

(209) 577-5267
Telephone Number

2002 Annual Report on the Modesto Urban Area General Plan

Purpose

This Annual Report on the Modesto Urban Area General Plan is prepared pursuant to California Government Code Section 65400(b). The purpose of this report is to update the Planning Commission, the City Council, the Governor's Office of Planning and Research (OPR), and the State Department of Housing and Community Development (HCD) of the City's progress in implementing the City's General Plan and on progress in meeting regional housing needs. The General Plan serves to guide the City's overall growth for the next twenty years.

Status of the Modesto Urban Area General Plan

The present Modesto Urban Area General Plan was adopted in August 1995. It is internally consistent and complies with California Planning and Zoning Law and the General Plan Guidelines adopted pursuant to Government Code Sections 65300 et seq.

In April 1992, the City adopted an updated Housing Element, which is one component of the General Plan, pursuant to Government Code Section 65588. The Housing Element was re-certified to be in compliance with State Law by HCD in April 1995. The Housing Element update is underway and will be considered for City Council adoption by December 2003.

Progress in Implementation of the General Plan

Implementation of the Modesto Urban Area General Plan is ongoing. Activities generally include processing private development applications and amendments to adopted specific plans and the General Plan. All planning-related applications and development permits including building permits, rezones, parcel maps, and specific plans must be found to be consistent with the General Plan to obtain approval. Where inconsistencies are determined to exist, the Planning Commission and the City Council conduct public discussions to weigh the merits of the proposal as it affects the implementation and integrity of the General Plan.

A summary of various planning applications and efforts during 2002 is provided below. The summary describes applicant-initiated planning activity, City-initiated planning activity, and a discussion of housing policy implementation.

A. Applicant-Initiated Planning Activity

1. General Plan Amendments

The City considered two general plan amendments amending small areas on the City's General Plan Land Use Diagram as described below:

- a. An amendment to the Modesto Urban Area General Plan to redesignate a one-acre site located between Roseburg and

Mensinger Avenues, west of McHenry Avenue, from Residential to Mixed Use. The Amendment was initiated to facilitate the development of a 20,000 square foot professional office complex.

- b. An amendment to the Modesto Urban Area General Plan to redesignate approximately one-acre site at 810 Standiford Avenue from Residential to Mixed Use. The Amendment would result in the development of a 10,000-square-foot professional office complex.

A location map of each of these General Plan Amendments is provided as Map 1 and Map 2.

2. Specific Plan and Precise Plan Amendments

In 2002, the City considered one specific plan amendment. This was an amendment of the Village One Specific Plan and it included a precise plan amendment. These two actions pertained to the same property located on the south side of Sylvan Avenue east of Esta Avenue. The Specific Plan amendment resulted in moving 4.1 acres from Precise Plan Area No. 6 to Precise Plan Area No. 7. The purpose was to facilitate development of 4.1-acre site with single-family family construction.

3. General Plan Conformity

Three requests were considered for conformity with the General Plan.

- a. Acquisition of property located at 1340 Scenic Drive by the City for public recreational use.
- b. City Disposition of property located at the east corner of Twelfth and I Streets for an office project by the County of Stanislaus.
- c. Acquisition of property located at 1200 Graphics Drive by the City to promote the development of a business park (i.e., Kansas Avenue Business Park).

4. Amendments to the Title X of Modesto Municipal Code (Zoning Code)

Two amendments to the Zoning Code were considered during 2002. They are as follows:

- a. Two amendments to the Sign Regulations (Article 21) of the zoning regulations: One amendment now allows freestanding menu boards for car wash establishments. The second amendment added the freestanding sign limitation of 150-feet back to the code.

- b. Amendment to the zoning ordinance to provide for residential development in the C-1 and C-2 Zones, subject to a use permit. This amendment was approved to allow an already residentially-developed commercial lot to be expanded with a second residential unit. This change further increased opportunities for mixed use development.

5. Amendments to Standard Specifications

There were two amendments to the City's development standards during 2002.

- a. Adoption of vehicular roundabout policy establishing guidelines for the uniform application of roundabouts.
- b. Revisions to the City's storm drainage standard specifications.

6. Rezone of land use designations

During 2002, the City considered seven zone changes. They are as follows:

- a. Rezone property located between Roseburg and Mensinger Avenues, west of McHenry Avenue, from R-1 & R-3 to Planned Development, P-D(553) allowing a professional office development and associated off-street parking as allowed in the Professional Office (P-O) Zone.
- b. Rezone property located at the northeast corner of Hillglen and Esta Avenues from Specific Plan Holding (SP-H) Zone to Specific Plan Overlay (SP-O) to allow a 19-lot subdivision.
- c. Rezone property located on the east side of Crows Landing Road, South of Winmoore Way from C-1 to Planned development P-D(554) providing for uses as allowed in the C-2, General Commercial Zone.
- d. Rezone property located at 810 Standiford Avenue from R-1 to P-D(555) allowing a medical office development and associated off-street parking as allowed in the P-O Zone.
- e. Rezone property located on the northwest corner of Tully Road and Snyder Avenue from SP-O Zone to P-D(557), allowing office uses.
- f. Rezone property located at the southwest corner of N. Santa Cruz and La Loma Avenue from Light Commercial (C-1) to P-D(558), allowing an automatic car wash in conjunction with an existing convenience store and gas station as allowed in the C-2 Zone.

7. Precise Plan Amendments

During 2002, the City adopted the establishment of two Precise Plan areas within the Village One Specific Plan. Precise Plan Areas serve as specific zoning and are intended to implement the Village One Specific Plan. The two precise plans are as follows:

- a. Adoption of Precise Plan Area No. 13 of the Village One Specific Plan amending the zoning from SP-H to SP-O for the development of single-family residential land uses. The area is bounded by Roselle, Hillglen, Millbrook and Kodiak Avenues.
- b. Adoption of Precise Plan Area No. 9 of the Village One Specific Plan amending the zoning from SP-H to SP-O for the development single-family lot subdivision. The area is generally located at the southwest corner of Sylvan Avenue and Claus Road.

8. Variances

The City considered five variance applications consisting of three requests to encroach within the rear setback requirement. Another rezone request involved adding additional nonconforming land uses to an established development. The remaining variance provided increased living area to a single-family residence. They were as follows:

- a. Approval of a variance for property located at 1122 Stoddard Avenue and property at the northwest side of Campus Way west of its intersection of Arc Way. The variance allowed a convenience store and coffee shop, deli shop as additional uses to a nonconforming commercial building and for noncontiguous off-street parking.
- b. Approval of a variance for property located at 938 Magnolia Avenue. The variance would extend an existing nonconforming residence into the side-yard setback. The home is an area where many homes do not presently meet setback requirements.
- c. Approval of a variance for property located at 1218 Crescent Drive. The variance would permit an addition to the residence within the side-yard setback. The home is not situated parallel to the property because of an oddly shaped lot.
- d. Approval of variance for property located at 210 Hintze Avenue. The variance would permit encroachment of a garage into the side yard setback. The request involved a home that was built prior to current zoning setback requirements.

- e. Approval of a variance for property located at 417 Camellia Way. The variance would permit extension of a garage into the required side-yard setback. The property was developed prior to the current setback requirements.

9. Conditional Use Permits

The City considered 14 conditional use permit (CUP) applications. These CUP applications involved a variety of land use proposals as listed on **Exhibit A**.

10. Plot Plan Applications

Plot plan activity was limited to one application for a 16-unit apartment complex and two plot plans for business-related uses. They are further described below:

- a. Plot plan approval for property located at the southwest corner of N. Riverside Drive and Miller Avenue. The plot plan application was for the development of a 16-unit multi-family development (Miller Pointe) in the R-3 Zone.
- b. Plot plan approval for property located on the east side of Dale Road opposite Nightingale. The Plot Plan application was for the development of a 49,276-square-foot, two-story medical office building with 289-space parking lot in the Professional Office (P-O) Zone.
- c. Plot plan approval for property located at the southeast corner of Coffee Road and Mable Avenue. The plot plan application was for the development of a 13,600-square-foot medical office building in the P-O Zone.

11. Parcel and Subdivision Map Applications

The City processed 12 parcel map applications and 10 subdivision applications. The subdivision map applications involved 105.65 acres, resulting in 464 new lots. The subdivision activity consisted of the following maps.

- a. Vesting Tentative Map of Banyon Estates Subdivision dividing 8.25 acres located at the northeast corner of Fine and Sharon Avenues into 48 single-family lots.
- b. Vesting Tentative Map of Polakis Property Subdivision dividing 35.9 acres located on the north side of Merle Avenue east of Dermond Road in to 180 lots.

- c. Vesting Tentative Map of Olympic Park No.5 Subdivision dividing 3.7 acres located at the southeast corner of Millbrook and Sharon Avenues into 16 single-family lots.
- d. Vesting Tentative Map of Village Highlands Phase 7 Subdivision dividing 10.2 acres located on the south side of Sylvan Avenue west of Claus Road into 44 lots.
- e. Vesting Tentative Map of Village Highlands Phase 8 Subdivision dividing 8.6 acres located on the south side of Sylvan Avenue west of Claus Road into 13 lots and a 4.2-acre remainder.
- f. Vesting Tentative Map of Villagio Subdivision dividing 4.7 acres located at the northeast corner of Hillglen and Esta Avenues into 19 single-family lots.
- g. Vesting Tentative Map of Esta Estates dividing two acres located south of Hillglen Avenue, between Esta and Millbrook Avenues into six lots.
- h. Vesting Tentative Map of Mira Loma Subdivision dividing 5.1 acres located at the northeast corner of North Conejo and Julian Avenue into 25 single-family lots.
- i. Vesting Tentative Map of Covington Pointe Subdivision dividing 16.5 acres located at the southwest corner of Snyder Avenue and Tully Road into 81 residential lots and a remainder lot.
- j. Vesting tentative Map of Loretelli Manor Subdivision dividing 10.7 acres located at the southwest corner of Claratina Avenue and Coffee Road into 32 residential lots and one commercial parcel.

A location map depicting the approved tentative subdivisions is included as Map 3.

12. Miscellaneous Development Permits

The City processed nine additional development entitlement permits as follows:

- a. Amendment to P-D(139) to allow a funeral parlor
- b. A one-year time extension for Filing the Final Map of Monterey Bay Subdivision
- c. Amendment to P-D(501) to allow for a retail building and storage building
- d. Amendment to P-D(30) allowing for a comprehensive sign package
- e. Amendment to P-D(45) revising the development plan

- f. Amendment to P-D(485) revising the development plan
- g. Plot Plan for a single-family home
- h. Amendment to a development agreement with the Galas brothers and Del Valle, Inc. related to the Galas Brothers Tentative Subdivision.

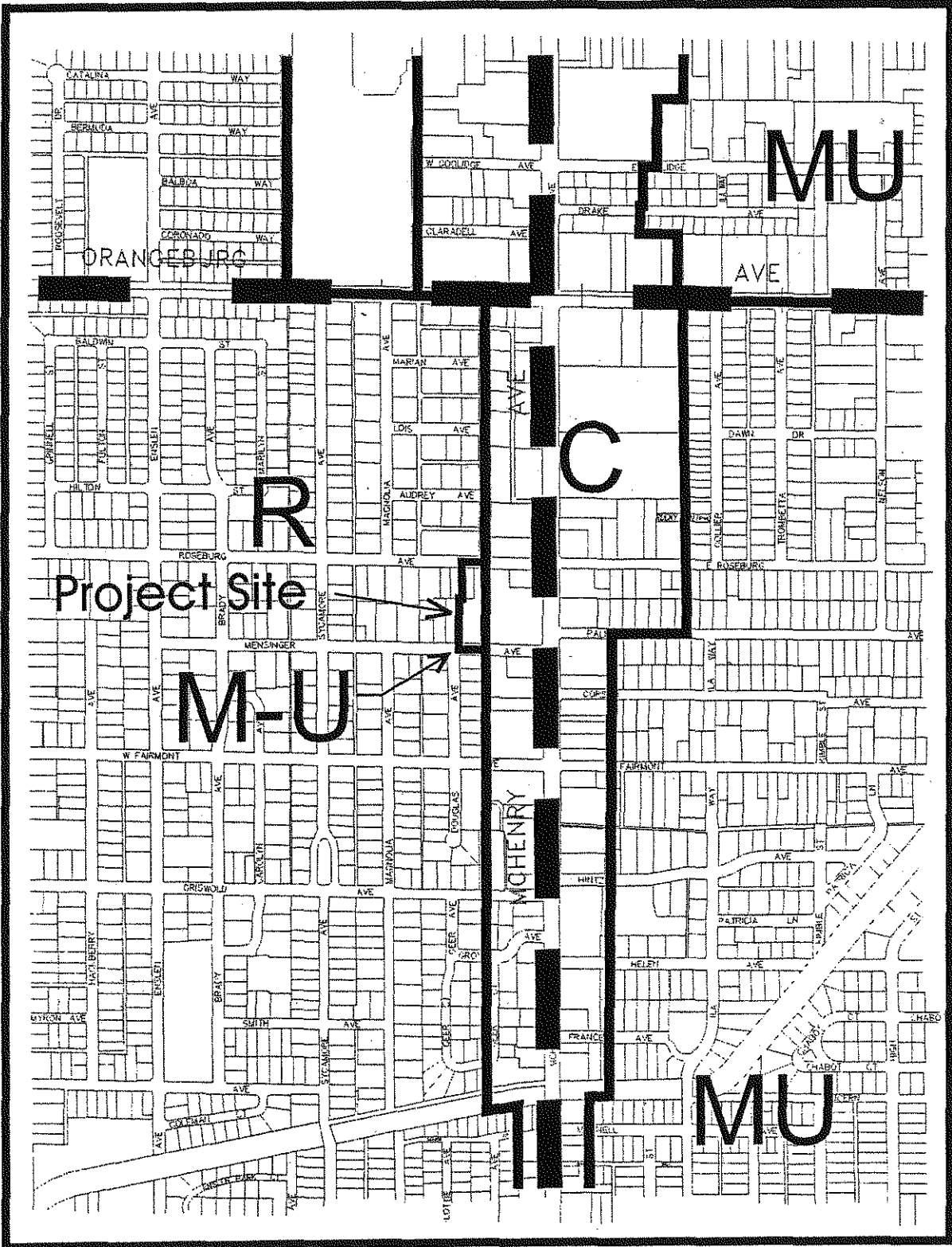
13. Building Permit Activity

During 2002, a total of 1,088 new-resident building permits were issued; 1,067 were for single-family homes and 21 for multi-family units. A total of 45 building permits for new commercial development valued at approximately \$23,233,000 were issued. A total of 35 building permits for new industrial development valued at approximately \$11,657,000 were also issued.

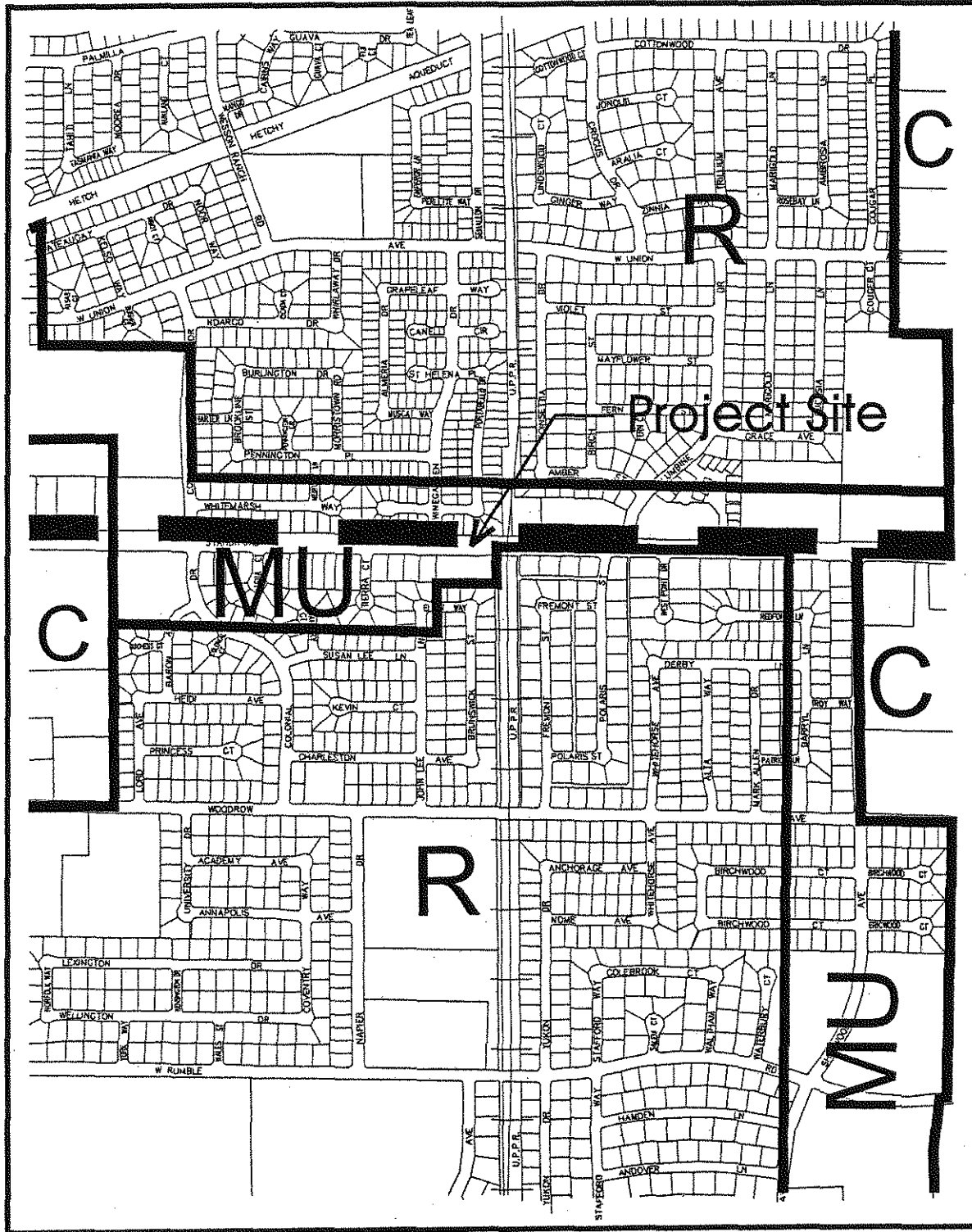
A table summarizing the complete applicant initiated planning activity during 2002 is provided below.

**Table A
Summary of Planning Application Activity During 2002:**

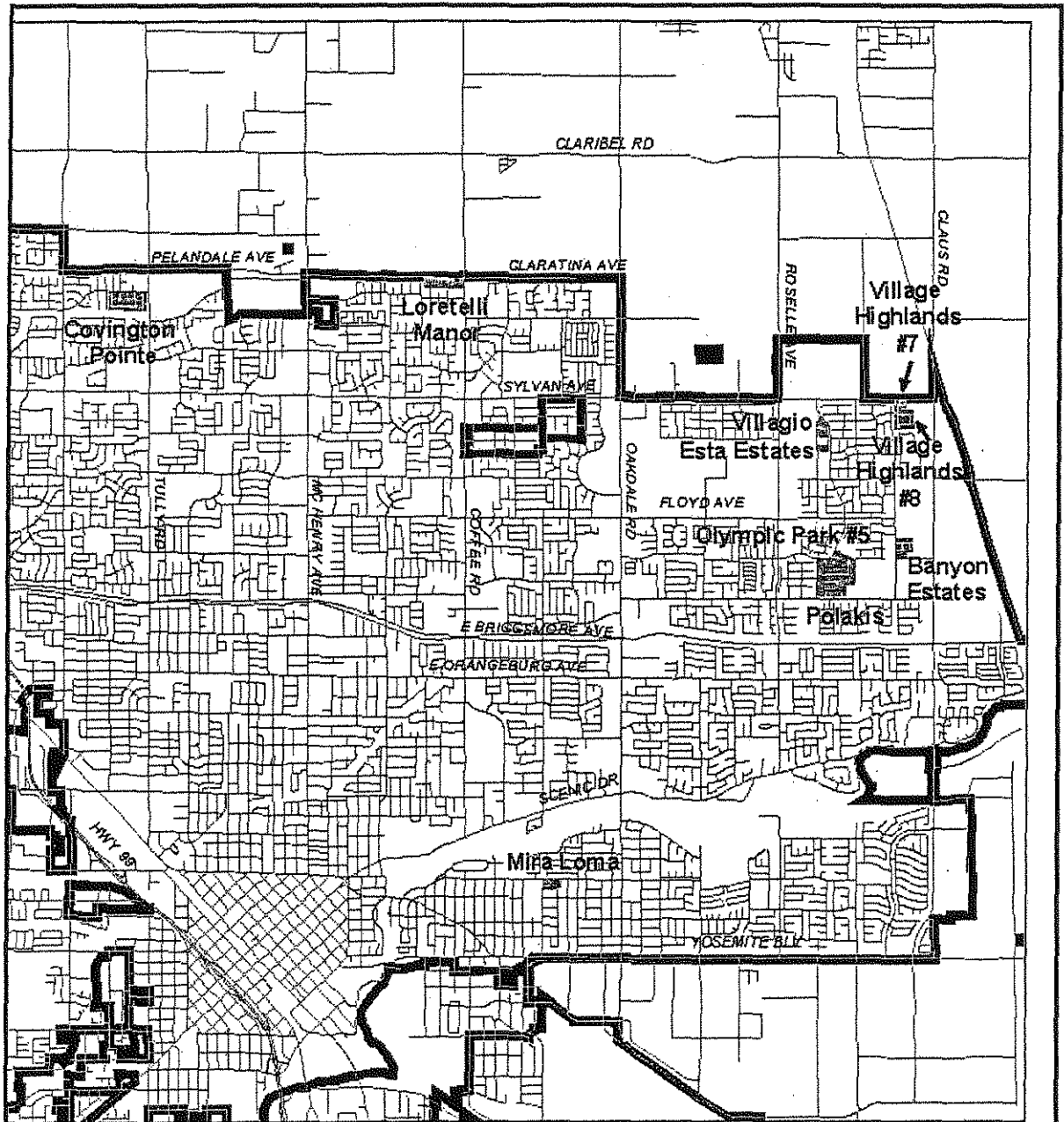
Type of Application Activity in 2002	Number of Applications
General Plan Amendments	2
Specific Plan Amendments	1
Precise Plan Amendments	3
Rezoning	7
Variances	5
Conditional Use Permit	14
Plot Plan Applications	3
General Plan Conformity	3
Amendments to the Zoning Ordinance	2
Amendments to the Standard Specifications	2
Miscellaneous Development Applications	9
Parcel Maps	12
Subdivision Maps	9
Total Private Development Applications	72



REVISED GENERAL PLAN LAND USE DIAGRAM



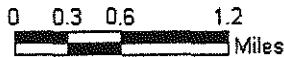
REVISED GENERAL PLAN LAND USE DIAGRAM



City of Modesto

2002 Subdivision Activity

10 Subdivisions
105.65 Acres
465 Lots



Legend	
	Subdivision Area
	City Limit



B. City Initiated Planning Activity

During 2002, the City of Modesto also conducted proactive planning activities. These activities focused on a variety of development issues:

1. General Plan Amendment and Master Environment Impact Report.

On March 4, 2003, the City Council certified the General Plan Master Environmental Impact Report (MEIR) update and adopted amendments to the General Plan to approve changes to the Circulation and Transportation Map, School Policy text, Archaeological and Historic Resource Policies, Airport Noise Policy, Employment Estimates in Comprehensive Planning Districts (CPD), combine CPD's to create a Salida CPD consistent with the County General Plan. This effort was possible through extensive staff work conducted during 2002.

2. Kansas Avenue Business Park

During 2002, the Community and Economic Development Department drafted a Guide for Development of the Kansas Avenue Business Park. The Guide outlines general design objectives for the Kansas Avenue Business Park, and is also used to reach a consensus for the development envisioned for the area. Work is now underway to complete a specific plan for the property. In addition, staff is also working on a focused environmental impact report for the proposed project. The proposed site is comprised of 27 industrially-zoned parcels, totaling 94 acres with approximately 45 acres being undeveloped.

3. Northwest Business Park

The Community and Economic Development Department resumed efforts to draft a specific plan for the development of the College West Comprehensive Planning District. This effort was postponed to incorporate the circulation and transportation changes and findings associated with the General Plan Amendment and MEIR Update. The specific plan area consists of 240 acres of business, office, support commercial manufacturing and distribution uses. Up to 2,388,000 square feet of building floor area is proposed.

4. Housing Element Update

The Community and Economic Development Department in collaboration with the Parks, Recreation and Neighborhoods Department commenced the process of updating the Housing Element. The Housing Element update is scheduled for adoption in December 2003. The City of Modesto is expected to provide sites that can accommodate up to 15,300 housing units by June 30, 2008.

5. Roselle/Claribel Specific Plan, General Plan Amendment and Focused EIR

City staff from various departments reviewed conceptual plans for the development of the Roselle/Claribel Specific Plan area. The project area is bordered by Oakdale Road, Sylvan Avenue, Roselle Avenue, and the Claratina Expressway. It would establish the development pattern for approximately 480 acres. A revised conceptual land use plan is pending from the applicant in response to City department comments on the draft concept plan. The project could include approximately 2,400 housing units, 70 acres of new commercial and 30-60 acres of open space.

6. Modesto Downtown Visioning and Ninth/Tenth Street Renovation Project

As a continuation of the overall downtown renovation effort, the City Council directed staff to embark on a visioning project for the restoration of the downtown core. The focus is on the complete renovation of Ninth Street and a portion of Tenth Street. This effort also includes developing a larger vision for the downtown core. Staff began preliminary efforts resulting in a draft budget for project design. The City Council is considering the costs associated with this project in light of other City priorities.

7. Infrastructure Studies

The Engineering and Transportation Department began several infrastructure studies to measure the carrying capacity of existing sewer, water, and storm drainage infrastructure along with anticipated impact from the development of new growth areas. The results of these studies are scheduled for completion in 2003.

8. Village One Building Moratorium

The City also examined the infrastructure needs, costs and development fees associated with build-out of Village One. In 2002, the City Council issued a nine-month moratorium for approval of new residential proposals. The City Council was scheduled to consider the new fee schedule for Village One at its May 6, 2003 meeting.

C. Implementation of Environmental Mitigation Measures

The City continues to require appropriate conditions to mitigate potential impacts to the environment. In association with the 1995 General Plan update, the City adopted a Master Environmental Impact Report (MEIR). The adopted MEIR contained a number of environmental mitigation measures that are triggered when certain criteria are present in or near the project area (e.g.: riparian area, noise contour levels). The City incorporates appropriate mitigation measures identified in the MEIR as conditions of project approval. Several Program Environmental Impact Reports have been prepared and adopted since the adoption of the MEIR.

in 1995. These documents are also used to augment the mitigation measures listed in the Final MEIR.

D. Implementation of Housing Policy

As part of the Annual General Plan Report, the City is encouraged to report on certain housing conditions as listed in Government Code 65583 and 65584.

1. Local Housing Growth

During calendar year 2002, the region and the City experienced average population and housing unit increases. The City issued 1,088 permits for new housing units in calendar year 2002. Applying an average density of 2.85 persons per household would increase the City's population by approximately 3,100 persons during 2002.

2. Local Housing Costs

For the most part, new housing units built during 2002 catered to moderate and above moderate-income households. The median sales price of homes increased from \$160,000 to \$190,000, with new homes prices starting in the low \$200,000 price range. Rental housing costs also continued to rise by as much 30%.

3. Lending Rates

During 2002, mortgage interest rates were at their lowest level in the last 30 years. This has enabled households to either refinance or afford a new and often larger residence. However, the cost of housing has continued to increase as well, pricing out many long-time renters and young and older households from purchasing entry-level homes.

4. Residential Land Inventory

The City's vacant residential land inventory has decreased due to housing development around the City's fringe. At this time, it appears that the City has sufficient land to accommodate average housing construction for the next four years, based on historical growth rates. The ability to provide sufficient infrastructure to serve new development will continue to present a major challenge in the future.

In 2002, the City imposed a development moratorium in the Village One Specific Plan area to reassess the City's development fees that are applied to infrastructure improvements - this temporarily stopped new housing projects in this planning area. The City Council was scheduled to consider the new fees for Village One on May 6, 2003.

5. Development of Housing that is Affordable to Working Families

During 2002, City efforts in implementing the housing element consisted of the following:

- a. Approved a 16-unit apartment complex (Miller Pointe) proposed by the Housing Authority County of Stanislaus
- b. Committed the Redevelopment Agency's funds to a housing project in the downtown area
- c. Funded the efforts to update the Housing Element
- d. Amended the Down Payment Assistance Program
- e. Provided federal funding to rehabilitate a 16-unit apartment complex (Garden Gate Apartments) located at 5th and F streets
- f. Provided federal funding to Housing Authority County of Stanislaus for the rehabilitation of Pine Meadows Apartment (36 unit)
- g. Provided federal funding to STANCO for the development of a new 18-unit multi-family project at 3333 Carver Road
- h. Completed Housing Code Enforcement of Prescott Estates, refurbishing 312 condominiums.

6. Housing Element Update

During 2002, the City began its efforts to update the Housing Element. The City conducted one community workshop, three neighborhood meetings and began monthly committee meetings to facilitate the update of the Housing Element. The City contracted with a housing analyst (Cotton/Bridges/Associates) to assist in this effort. The update efforts have resulted in a review of housing accomplishments, identification of housing needs, identification of constraints to housing development, and review of housing goals, policies and programs. The Housing Element update is scheduled for a December 2003 adoption date.

7. 2001-2008 Regional Housing Needs Allocation

During 2002, Stanislaus Council of Governments (StanCOG) developed the 2001-2008 Regional Housing Needs Allocation report. This report was submitted to the State's Department of Housing and Community Development (HCD) for its approval. HCD has yet to approve StanCOG's Regional Housing Needs Allocation. Modesto's allocation ranges from 9,000 units as

proposed by StanCOG to 15,300 units as projected from State estimates. The Allocation report also requires the units to be allocated by income categories (i.e.: very-low, low-, moderate- and above-moderate income).

E. Progress in Meeting the Regional Housing Needs

In February 2001, the Stanislaus Area Association of Governments, now known as Stan COG, adopted the 1990-1997 Housing Needs Report. The State Housing and Community Development Department (HCD) approved this Report. HCD and StanCOG are expected to approve an updated Housing Needs Allocation Plan later this year. Because the proposed Regional Housing Needs Plan has not been adopted, the previous Plan, adopted in 1991 will be used for the Housing Element Update. An average annual housing allocation of the 1990-1997 housing plan required Modesto to accommodate a total of 1,670 units per year. This allocation is projected annually until a new RHNA plan is adopted. This housing need amount is also disaggregated by various income groups. A comparison of housing units constructed and housing units needed is provided on the following table.

The 1990-1997 Housing Needs Report required a total annual housing need as follows:

Income Group	Annual Housing Need	Housing added in 2002	Remaining Need
Very-Low	401	0	401
Low-	284	21	263
Moderate-	351	150	201
Above-Moderate	634	917	0
Total	1,670	1,088	865

The development of housing for very-low and low-income residents has been low at best. Affordable housing is a common issue faced by other communities throughout the State, and at this time is the focus of the proposed Housing Element update.

Issues

The following issues are proposed to be addressed in the near future. As this report is intended for informational purposes, no action is requested on these issues at this time.

A. General Plan Update

The General Plan's Community Growth Policy Review states:

"A review of the growth trends in the Modesto Urban Area should be held on a periodic basis, perhaps annually. This periodic review should provide for the selection of potential urban areas to be served with urban infrastructure during the ensuing five years."

(Source: Modesto Urban Area General Plan Chapter II, Section C General Plan Maintenance, 1. Urban Area Growth Policy Review.)

The Urban Growth Review considers existing residential, industrial, and commercial vacant land inventories. With this information the City Council provides direction on the timing and location of annexation of lands to the City. This will be based on availability and capacity of existing public infrastructure and the City's financial resources. With limited financial resources, the City will have to closely evaluate the rate of future growth and development. The City Council is scheduled to consider the City's Urban Growth Policy in the summer of 2003.

As a result of any Urban Growth Policy Review actions, the City Council may require a General Plan Amendment. A comprehensive General Plan update may also be directed by the City Council. Subsequent development proposals will be encouraged to be developed under a comprehensive development plan (e.g. Specific Plan).

The Modesto downtown area may also be an area of special focus to help it become a regional business and cultural center for the Stanislaus County region.

B. Infrastructure

As part of the Urban Growth Policy Review, City staff will be providing information on the adequacy of existing public infrastructure and the availability of City resources. The City will be examining the availability of water for domestic use. The City will be evaluating the ability of its wastewater delivery and treatment system. An evaluation of the City-Road infrastructure is also pertinent in addressing growth.

The costs associated with providing adequate infrastructure will be tied to development fees. These fees are also under review.

C. Affordable Housing

Land values continue to increase as available vacant land sites dwindle. This directly affects the ability of a household to purchase a home in Modesto. The City will review actions that may result in increasing the supply of vacant residentially designated land.

The Housing Element will examine a variety of strategies that the City can apply in increasing opportunities for housing.

Housing affordability is also directly tied to a household's earning level. To this end, the City is moving forward on developing specific plans for the development of business parks (e.g. Kansas Avenue Business Park, North Gateway Business Park, Northwest Business Park). In addition, the retention and expansion of local jobs will remain a Council priority.

D. Preservation of Important Farmland

The City is committed to preserving important farmland outside of its Sphere of Influence. As part of the Urban Growth Review, the City will be carefully considering the direction of development within its Sphere of Influence as it affects important farmland.

Exhibit A

2002 Conditional Use Permits (CUP)

1. CUP for three combined business signs at the Town and Country Square Shopping Center on the north side of Briggsmore Avenue between Sisk and Prescott Roads
2. CUP for a Convenience Store and Coffee Shop/Deli at 1122 Stoddard Avenue and additional parking northwest side of Campus Way, west of Arc Way
3. CUP for the development of a 3,800-square-foot warehouse/retail building and a 4,190-square-foot office building on property at the west of Carpenter Road, between Torrid and Woodland Avenues
4. CUP for an expansion of a six-person to an eight-person residential service facility at 201 Jennie Street
5. CUP to place a sign above the portion of a building located at the southwest corner of Eleventh and J Streets
6. CUP for a revised development plan featuring a two-story multi-purpose building for a church located at 1600 Carver Road
7. CUP to extend a day care facility from 36 to 50 children, also revising hours and relocating playfield fencing at 1911 Toyon Avenue
8. CUP for the development of a 9,900-square-foot office building and related parking
9. CUP for a 72.5-foot-tall cellular communications antenna facility at 1021 Oakdale Road
10. CUP for expansion of a church at the southeast corner of Second and H Streets
11. CUP for a revised master plan featuring an additional modular classroom at the southeast corner of Tully Road and Woodrow Avenue
12. CUP for a one-story addition to the care facility located on the north side of St. Paul's way, east of Oakdale Road
13. CUP for a 66,000-square-foot two-story high school and off street parking at the southeast corner of Pelandale Avenue and Tully Road
14. CUP for the addition of a storage building and expansion of a parking lot by thirty-six spaces on property at the northeast corner of Floyd Avenue and Newport Drive.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-380**

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND INLAND VILLAGE, A CALIFORNIA GENERAL PARTNERSHIP, FOR A PORTION OF ASSESSORS PARCEL NUMBER: 085-4916 FOR THE ACQUISITION OF PROPERTY FOR THE CLAUS ROAD EXPRESSWAY PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT.

WHEREAS, in March 2000, the City Council of the City of Modesto approved the Claus Road Expressway Project (“Project”) to extend the improvements along Claus Road as part of the City’s Capital Improvement Program projects, and

WHEREAS, certain real property needs to be acquired for said Project which property is identified as a portion of Assessor’s Parcel No: 085-4916, and which property is owned by Inland Village, a California General Partnership, and

WHEREAS, an agreement is needed for the acquisition of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and Inland Village, a California General Partnership, for the Claus Road Expressway project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager or his designee on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

BY: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-381**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY INLAND VILLAGE, A CALIFORNIA GENERAL
PARTNERSHIP, FOR ASSESSORS PARCEL NO: 085-4916 FOR THE CLAUS
ROAD EXPRESSWAY 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 from Inland Village, a California General Partnership, for a portion of Assessors Parcel No: 085-4916 for the Claus Road Expressway 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Claus Road Expressway Project.

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 sign any and all documents related to the purchase of real property on behalf of the City of Modesto as it is required for the acquisition of the property for the Claus Road Expressway Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-382**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE ENVIRONMENTAL IMPACT REPORT (SCH No. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: APPROVING RIGHT-OF-WAY ACQUISITION FOR THE ULTIMATE CLAUS ROAD 6-LANE EXPRESSWAY.

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, Section 15168 (C) (4) of the CEQA Guidelines, relating to reviewing subsequent activities of a Program EIR, states that the lead agency shall prepare a Written Checklist 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 program 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 Engineering and Transportation Department, by Written Checklist, EA/ET 2003-17, reviewed the proposed Claus Road Right-of-Way Acquisition, and made the determination that the proposed acquisition will have no additional significant effect on the environment that was not identified in the Program EIR; and, further, that no new or additional mitigation measures or alternatives will be required, and that, therefore, the proposed right-of-way acquisition is within the scope of the project covered by the Program EIR,

WHEREAS, on July 8, 2003, the City Council considered said matter.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist prepared for the proposed Claus Road right-of-way Acquisition, a copy of which is attached hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Written Checklist makes the following findings:

1. This activity is within the scope of the program approved earlier, and
2. The Program Environmental Impact Report adequately describes the activity for the purposes of CEQA.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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 8th day of July, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

WRITTEN CHECKLIST

EA/ET No. 2003/17

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. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Claus Road right of way Acquisition (project).

This Checklist is not an Initial Study: This checklist serves to evaluate a subsequent activity of the Village One Program EIR for site-specific operations, to evaluate the site and the activity and determine whether the environmental effects of the operation were covered in the Program EIR. This checklist is not, an Initial Study as defined by CEQA Guidelines Section 15160 et.seq.

II. PROJECT INFORMATION

1. **Project Title:** Claus Road Right-of-Way
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Rich Ulm, Deputy Director
Modesto Engineering and Transportation
Department
209/577-5215
4. **Project Location:** 3925 Sylvan Avenue
Modesto, California
APN Number 095-01-70

- 5. Project Sponsor's Name and Address:** City of Modesto
P.O. Box 642
Modesto, CA 95353
- 6. General Plan Designation:** The General Plan land use designations include Village Residential (VR) which allows predominantly single-family residential uses; Multi-Family Residential; Senior Housing; School/Park/Basin site; Commercial; and Business Park (BP) which allows light industrial manufacturing, office, associated service retail (and, in Village One, regional commercial) uses.
- 7. Zoning:** Specific Plan Holding SP-H
- 8. Description of Project:** Pursuant to the adopted Village One Specific Plan, the City of Modesto is planning to realign Claus Road, near the Sylvan Avenue intersection. The proposed project will require right-of-way from a portion of the property located at 3925 Sylvan Avenue, Modesto, California, identified as APN: 095-01-70. (See attached diagram).
- 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 rural, agricultural, and open space land uses to the North, South and East, and by residential uses to the 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 15162 the following is true for the proposed project:

- (1) Major revisions to the Village One Program EIR as updated 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 updated 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.
- (4) Because no new significant effects 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 Claus Road Right-of-Way Acquisition project is within the scope of the Village One Program EIR.

Project Manager

Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guildlines 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition 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 the Right-of-Way Acquisition on scenic vistas to be less than significant because views from the project area are minimal. The proposed Claus Road Right-of-Way Acquisition 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 the right-of-way acquisition would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed Claus Road Right-of-Way Acquisition

project because the project area remains the same. There would be no impact. No mitigation is required.

- c. The Village One Specific Plan program EIR found that the Right-of-Way Acquisition would have a less-than-significant impact on the visual character of the area. The proposed Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition project would not change the proposed lighting for Village One. 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 4 acres of land designated as Prime Farmland would be lost as a result of the Right-of-Way Acquisition. This impact was determined to be significant and not mitigable. The proposed Claus Road Right-of-Way Acquisition 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 expired in 2001. 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. This finding would not be affected by the proposed Claus Road Right-of-Way Acquisition 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e.	Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, 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 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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition would not change the level of construction emissions. There would be no additional impact. No mitigation is required.
- e. The Right-of-Way Acquisition consists of concrete and asphalt roadway construction and does not contain any components that would create odors. The proposed Claus Road Right-of-Way Acquisition 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition would not change project area boundaries. There would be no additional impact. 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 Right-of-Way Acquisition area, and so found that the project would have a less-than-significant impact. The proposed Claus Road Right-of-Way Acquisition would not change project area boundaries. There would be no impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that the Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition area, nor did it find that the project would interfere with the movement of any species. The proposed Claus Road Right-of-Way Acquisition 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Responses to Checklist Questions

- a.-d. Impacts on cultural resources resulting from the Right-of-Way Acquisition (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 Right-of-Way Acquisition would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed Claus Road Right-of-Way Acquisition would not change the locations or types of construction in the project area nor the boundaries of the project area. Construction of roadway improvements 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 Claus Road right-of-Way project. 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	2. Strong seismic groundshaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b.	Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way project. No significant impacts were identified, and no mitigation measures were required. The proposed Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition 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 Claus

Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition is located in an area of the City of Modesto planned for buildout 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 wildland fires is low, and this potential will decrease as buildout continues. Adoption of the proposed Claus Road Right-of-Way Acquisition 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
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VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j.	Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition would violate any water quality standards or waste discharge requirements. The proposed Claus Road Right-of-Way Acquisition would not change water use or discharge associated with the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR found that the Right-of-Way Acquisition 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 stormwater runoff and recharge of groundwater. The proposed Claus Road Right-of-Way Acquisition 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 mitigation is required.

- c.-e. The Village One Specific Plan program EIR found that the Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition would otherwise substantially degrade water quality. The proposed Claus Road Right-of-Way Acquisition would not change water use or discharge associated with the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.
- g.-i. According to the Village One Specific Plan program EIR, the Right-of-Way Acquisition is not situated in a 100-year flood hazard area or downstream from a levee or dam. The proposed Claus Road Right-of-Way Acquisition would not change the project area boundaries. There would be no impact. No mitigation is required.
- j. The Right-of-Way Acquisition area 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
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IX. LAND USE AND PLANNING. Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 Claus Road Right-of-Way Acquisition would not result in any physical changes to the environment beyond those proposed as a part of the Right-of-Way Acquisition. Village One would continue to be developed as a planned community; therefore, the Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition would expose existing residential uses on Claus Road 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 not to a less-than-significant level. The City made a statement of overriding considerations when it certified the 1994 Supplement.

The program EIR also 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. The proposed Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition would result in no significant impacts on population and housing units. The proposed Claus Road Right-of-Way Acquisition would not change the amount of housing or employment in the 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
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition would ensure that cost estimates for funding public service improvements are up to date. The Claus Road Right-of-Way Acquisition 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Claus Road Right-of-Way Acquisition 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition would result in a change in air traffic patterns. The proposed Claus Road Right-of-Way Acquisition 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 the Right-of-Way Acquisition included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed Claus Road Right-of-Way Acquisition 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 the Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition would not change roadway design 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 Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 Claus Road Right-of-Way Acquisition would not increase the amount of wastewater that will be generated at buildout of the Right-of-Way Acquisition. 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 Right-of-Way Acquisition. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. The proposed Claus Road Right-of-Way Acquisition 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 Right-of-Way Acquisition. 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 proposed Claus Road Right-of-Way Acquisition would not change the project drainage plans or expected volume of stormwater. 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 the Right-of-Way Acquisition on water supply would be less than significant. The proposed Claus Road Right-of-Way Acquisition would not change the Right-of-Way Acquisition'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 Right-of-Way Acquisition's solid waste disposal needs. The proposed Claus Road Right-of-Way Acquisition 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
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XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

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|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

Responses to Checklist Questions

- a. As described above, the proposed Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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 Claus Road Right-of-Way Acquisition 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.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-383**

**A RESOLUTION APPROVING THE FY 2003-2004 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”) to prepare an annual budget for each fiscal year, which Waste-to-Energy annual budget is to be submitted to the City Council and Board of Supervisors for approval, and

WHEREAS, at its June 12, 2003, meeting the Solid Waste-to-Energy Executive Committee considered the 2003/2004 budget as shown in the attached Exhibit “A”, and the Executive Committee unanimously approved forwarding the 2003/2004 Waste-to-Energy 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 2003-2004 Waste-to-Energy Project Budget, a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

WTE Buc FY 00-04

DESCRIPTION	FY -00-01		FY 01-02		FY 02-03 Est. Actual Budget*		FY 03-04 Proposed Budget	
	Budget	Expenditures	Budget	Expenditures	Budget	Expenditures	Budget	Expenditures
60400 Communications	500.00	0.00	500.00	0.00	0.00	0.00	0.00	
61600 Maintenance- Equipment	500.00	0.00	500.00	0.00	0.00	0.00	0.00	
62200 Memberships	9,000.00	12,000.00	12,000.00	12,000.00	12,000.00	15,000.00	15,500.00	
62600 Office Supplies	**1000	131.00	1,000.00	0.00	0.00	0.00	200.00	
62780 Books & Periodicals	500.00	0.00	500.00	0.00	0.00	0.00	200.00	
62900 Exp. Equipment - To \$5,000	0.00	0.00	0.00	0.00	0.00	(7,367.00)	0.00	
63000 Professional & Special Svcs	**200,000.00	20,000.00	174,000.00	26,387.50	160,000.00	45,000.00	134,000.00	
63280 Contracts	**0.00	14,150.00	0.00	34,932.45	0.00	(20,584.00)	0.00	
63400 Engineering Services	**75,000.00	16,556.18	0.00	0.00	100,000.00	0.00	100,000.00	
63410 Admin. Services (City)	**130,000.00	129,675.94	150,000.00	150,000.00	160,000.00	160,000.00	170,000.00	
63640 Legal Services	**50,000.00	39,425.63	250,000.00	4,520.00	200,000.00	200,000.00	200,000.00	
65000 Publications & Legal Notices	200.00	0.00	200.00	0.00	200.00	0.00	200.00	
65100 Rents & Leases-Equipment	1,000.00	0.00	1,000.00	0.00	0.00	0.00	0.00	
65300 Rents & Leases-Struct & Grnds	**4,000.00	0.00	4,000.00	0.00	0.00	0.00	0.00	
65780 Education & Training	1,000.00	0.00	1,000.00	0.00	0.00	0.00	0.00	
65920 Meeting Allowance	0.00	0.00	0.00	0.00	0.00	(307.00)	0.00	
66710 Service Charges	11,820,998.00	12,120,856.80	9,980,842.00	6,718,697.96	7,770,342.00	6,422,352.00	7,645,470.00	
67040 Other Travel Expenses	**7,500.00	1,047.10	7,500.00	1,367.96	7,500.00	0.00	7,500.00	
74080 Central Scvc Printing	0.00	0.00	0.00	0.00	0.00	0.00	200.00	
74250 County Counsel Services	22,740.00	3,386.43	23,000.00	6,045.12	23,000.00	23,000.00	17,308.00	
74300 Funds >13-Svc dpt Billings-In	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
74301 Funds >13-Svc dpt Billings-Au	260.00	199.37	110.00	136.53	110.00	123.00	130.00	
74302 Funds >13-Svc dpt Billings-Pu	350.00	235.78	200.00	180.47	200.00	156.00	300.00	
74370 Stores-Office Supplies	210.00	0.00	220.00	0.00	220.00	0.00	220.00	
74520 Admin. Services (County)	77,000.00	126,518.57	75,000.00	74,796.80	96,000.00	96,000.00	103,344.00	
74880 Funds >13 - A-87 charges-CEO	0.00	0.00	428.00	428.00	428.00	428.00	428.00	
85850 Other Operating Transfers Out	876,000.00	779,536.34	876,000.00	781,898.00	0.00	0.00	0.00	
85850a Operating Transfers Out - AB 939					405,000.00	376,647.00	405,000.00	
85850b Operating Transfers Out HHW					405,000.00	376,647.00	405,000.00	
Total	13,278,430.00	13,263,719.14	11,558,000.00	7,661,266.59	9,340,000.00	7,687,095.00	9,205,000.00	

* As of April, 2003, proj. through end of Fiscal Year.

FY 2003-2004 Waste to Energy Project Budget Expenditures - Additional Detail

Account	Amount	Description
60400	\$0	Communications - provision for personal communications equipment
61600	\$0	Maintenance - equipment - provision for equipment maintenance contracts
62200	\$15,500	Memberships – \$15,000: Annual Membership in the Independent Energy Producers Association, which was formed to represent the interests of small energy producers. \$500: Annual membership in the IWSA, a national organization representing the interest of waste-to-energy facilities.
62600	\$200	Office Supplies - WTE letterhead, envelopes, etc.
62780	\$200	Books/Periodicals - provision for WTE related publications
63000	\$134,000	Professional and Special Services \$80,000: <u>Financial Advisors</u> - Ongoing Financial Advisor Services related to the administration of the project, such as disposal fee projections. \$8,000: <u>Bond Logistix</u> - Annual analysis required for tax purposes \$36,000: <u>Legislative Lobbyist</u> - Lobbyist to represent the project's interests with the Legislature, ISO, and other state agencies \$10,000: <u>Bi-annual Trust Account Audit</u> - The project audits the Trust Account every two years.
63280	\$0	Contracts
63400	\$100,000	Engineering Services - Contingency for engineering services that may be required if there are any required modifications to the facility.
63410	\$170,000	Administrative Services - Reimbursement to the City of Modesto for staff costs associated with the project, as follows: Engineering & Transportation - \$32,500 City Attorney - \$29,500 Solid Waste - \$96,000 Office Expenses - \$12,000
63640	\$200,000	Legal Services - Outside legal counsel for the PG&E litigation, Bond Counsel to the project, Bankruptcy Counsel to the project, and other necessary legal assistance.
65000	\$200	Public/legal notices – Provision for required legal notices
65100	\$0	Rent/equipment – Provision for office equipment rental
65300	\$0	Rent/structure- Provision for administration space rental
66710	\$7,645,470	Service Charges - Annual total of payments of the monthly Service Fees to Ogden Martin, which includes Debt Service, O&M costs, Pass Throughs and other costs.
67040	\$7,500	Travel Expenses - For project related travel.
60	\$8,273,070	Services & Supplies

Account	Amount	Description
74080	\$200	Central Services Printing
74250	\$17,308	County Counsel - Covers the County's cost for County Counsel services related to the project.
74301	\$130	Service Department Billing/Auditor - Covers the project related costs of the County Auditor/Controller.
74302	\$300	Service Dept. Bill - Purchasing - Internal service by Purchasing Dept.
74370	\$220	Stores - Internal supplies
74520	\$103,344	Admin Services - Covers the project related costs of the County Department of Environmental Resources, as follows: \$7,344 - Department of Environmental Resources \$96,000 - Solid Waste Staff
74880	\$428	A-87 Charges - County admin charges
70	\$121,930	Other Charges
82130	\$0	Office equipment
84420	\$0	Personal computer equipment
80	0	Fixed Assets
85850	\$810,000	Transfers out - \$1.50/ton for HHW and \$1.50/ton for AB 939
85	\$810,000	Other Financial Uses
	\$9,205,000	Total Expenditures for FY 2001-2002

**FY 2003-2004 Waste to Energy Project Budget
Revenue Projections**

Account	Amount Budgeted	Description
17000	\$1,510,000	Interest - Interest on pooled cash
34400	\$7,560,000	Sanitation Service - Disposal fee revenues
36470	\$0	Other - Service charge
40590	\$0	Donations & contributions
40860	\$135,000	Miscellaneous reimbursement - supplemental waste revenue and service fee credits
41450	\$0	Prior period revenue
	\$9,205,000	Total Revenues for FY 2003-2004

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-384**

A RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUESTS FOR PROPOSALS FOR THE “TRAFFIC SIGNAL COORDINATION PROJECT WITHIN DOWNTOWN MODESTO.”

WHEREAS, in January, 2001, staff applied for and was successful in securing federal funding from the Congestion Mitigation Air Quality (CMAQ) grant program for this project in the amount of \$159,354, and

WHEREAS, RSTP/CMAQ match funds were requested in the amount of \$20,000. The City’s match will be \$646 if the RSTP/CMAQ match funds are approved or \$20,646, if we do not get the match funds, and

WHEREAS, the total project cost is \$180,000 and funds are budgeted in “Traffic Coordination Downtown,” account no. 2300-160-N062, and

WHEREAS, a coordinated traffic signal system must be maintained with new baseline data collected every three to four years. Our last major downtown signal timing project was done in 1998, and

WHEREAS, the project involves collecting traffic count data and retiming 68 current and 3 future traffic signals in downtown Modesto, and

WHEREAS, the Economic Development Committee reviewed this project at its meeting on June 9, 2003, and recommended approval of the project, and

WHEREAS, the consultant selection will be a one-step combined RFQ and RFP process, a selection panel, appointed by the Engineering & Transportation Director, will review the proposals and recommend negotiations with the best qualified consulting firm,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit a competitive Request For Proposal (RFP) for a Traffic Signal Coordination Project within downtown Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-385**

A RESOLUTION AUTHORIZING STAFF TO SOLICIT A REQUEST FOR PROPOSALS (RFP) FOR A NEW BUS BENCH FRANCHISE AND INTERIOR BUS ADVERTISING LEASE TO BECOME EFFECTIVE JANUARY 1, 2004, AND APPOINTING A MEMBER OF THE CITY COUNCIL TO SERVE ON THE PROPOSAL EVALUATION COMMITTEE.

WHEREAS, the current bus bench franchise and interior bus advertising lease expire December 31, 2003, and

WHEREAS, bus benches are used by Modesto Area Express (MAX) customers to wait for buses and are particularly important to individuals who, because of age or physical disability, cannot stand for long periods of time, and

WHEREAS, continuation of the bus bench franchise saves the City a minimum of \$50,000 annually in maintenance expenses, and

WHEREAS, the City Council has expressed an interest in participating on panels that evaluate proposals, and

WHEREAS, the Economic Development Committee met on June 9, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated June 25, 2003, from the Engineering and Transportation Director, City staff recommended that the Council approve soliciting a request for proposals for a new bus bench franchise and interior bus advertising lease and consider appointing a Councilmember to the proposal evaluation committee as either a voting or non-voting member.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is authorized to solicit a request for proposals for a new bus bench franchise and interior bus advertising lease,

BE IT FURTHER RESOLVED that Councilmember Keating is appointed to serve on the proposal evaluation committee as a voting member.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-386**

**A RESOLUTION APPROVING A PERSONAL COMPUTER USE POLICY FOR
THE MAYOR AND COUNCILMEMBERS**

WHEREAS, in preparation for the Year 2000, The City of Modesto transitioned off a mainframe computer architecture to a client/server architecture, instituting a City wide network, internet connection and a standard e-mail system, and

WHEREAS, in August 2000, the City Council approved three computer policies for governing the use of this new architecture, including the use of personal computers, the Internet and e-mail, and

WHEREAS, these three policies were designed to protect the City's interest and liability for all City staff but contained no special provisions for Council, and

WHEREAS, these special provisions are now included in this recommended Council Policy, and

WHEREAS, they include non City e-mail access, personal use of the Internet, use of private computer equipment for City business, technical support staff availability, security and damaged or lost computer equipment, and

WHEREAS, IT and the City Manager's office have worked together to develop the attached policy, and

WHEREAS, a Personal Computer Use Policy was submitted to the Finance Committee on April 21 2003 and the Committee recommended that the policies be reviewed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the attached PC Use Policy for the Mayor and Council members

BE IT FURTHER RESOLVED THAT THE Council hereby authorizes the City Manager or his designee to implement and enforce said policies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Council member Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Council members: Keating

ABSENT: Council members: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-387**

**A RESOLUTION APPROVING A PHASED PROGRAM OF METER
INSTALLATION AND METERED WATER BILLING OF SINGLE-FAMILY
DWELLINGS IN THE CITY'S OUTLYING WATER SYSTEMS, BEGINNING
WITH THE GRAYSON AND DEL RIO SYSTEMS.**

WHEREAS, Section 11-1.06 of the Modesto Municipal Code establishes the rules and regulations for metered water service, and

WHEREAS, due to water quality issues throughout the City of Modesto water systems, there exists a water shortage potential due to water quality concerns, and

WHEREAS, the City's nine outlying water systems are entirely dependent on groundwater sources for water supply, and

WHEREAS, this dependence on groundwater requires effective strategies to limit or reduce water consumption in these areas, and

WHEREAS, the City is concerned about its ability to pump sufficient water to customers in these areas to meet demand, and

WHEREAS, City staff has developed a water conservation augmentation plan to address current water capacity issues, and

WHEREAS, City staff recommends a phased program of meter installation and metered water billing of single-family dwellings in the City's outlying water systems, beginning with the Del Rio and Grayson water systems, and

WHEREAS, city staff also recommends that the metered billing of single-family dwellings in the City's outlying water systems of Grayson and Del Rio will occur only after six months of water consumption and rate comparison information has been provided to the individual water customers, and

WHEREAS, on May 12, 2003, the City Council Economic Development Committee approved staff's recommendation, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves City staff's recommendation for a phased program of meter installation and metered water billing of single-family dwellings in the City's outlying water systems, beginning with the Grayson and Del Rio systems.

BE IT FURTHER RESOLVED that the metered billing of single-family dwellings in the City's outlying water systems of Grayson and Del Rio will occur only after six months of water consumption and rate comparison information has been provided to the individual water customers.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-388**

A RESOLUTION APPOINTING MEMBER 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 July 10, 2003, and recommended its approval to appoint DON MIRALLE to the Board of Building Appeals.

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

SECTION 1. DON MIRALLE is hereby appointed to the Board of Building Appeals, 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 newly appointed member and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackmna, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-389**

**A RESOLUTION APPOINTING MEMBERS 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 July 10, 2003, and recommended its approval to appoint PATRICIA A. AUSTIN and LLOYD FARRIS, to the Community Qualities Forum.

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

SECTION 1. PATRICIA A. AUSTIN, with a term expiration of January 1, 2004, and LLOYD FARRIS, with a term expiration of January 1, 2005 are hereby appointed to the Community Qualities Forum.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-390

**A RESOLUTION APPOINTING MEMBERS TO THE CITIZENS HOUSING AND
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 July 10, 2003, and recommended its approval to appoint TAMMY SPILLERS and ROBERT TRACHE 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. TAMMY SPILLERS and ROBERT TRACHE are hereby appointed to the Citizens Housing and Community Development Department with term expirations of January 1, 2005.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackmna, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-391**

**A RESOLUTION APPOINTING MEMBERS 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 July 10, 2003, and recommended its approval to appoint WILLIAM R. MITCHELL and DENNIS WISTER to the Landmark Preservation Commission.

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

SECTION 1. WILLIAM R. MITCHELL, with a term expiration of January 1, 2005, and DENNIS WISTER, with a term expiration of January 1, 2007, are hereby appointed to the Landmark Preservation Commission.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackmna, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-392**

**A RESOLUTION APPOINTING MEMBER 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, on November 6, 2002, Council appointed PHILIP TOMLIN to the Economic Development Loan Committee which was dissolved by Council on May 13, 2003, and

WHEREAS, staff recommends that PHILIP TOMLIN be appointed 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 appointed to the Housing Rehabilitation Loan Committee, 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 newly appointed member and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackmna, Keating, O'Bryant, Mayor Sabatino
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NOES:	Councilmembers:	None
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ABSENT:	Councilmembers:	None
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ATTEST: *Jean Zahr*
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-393**

A RESOLUTION APPROVING AN AGREEMENT FOR \$14,700.00 BETWEEN THE CITY OF MODESTO AND JIM D. AND MARIANA SANFORD AND RICHARD WAYNE FRITZ AND RYAN ALEXANDER FRITZ (APN 085-01-47) FOR A TEMPORARY CONSTRUCTION EASEMENT ACQUISITION FOR CONSTRUCTION OF A 60" STORM DRAIN PIPE WITH THE HILLGLEN STORM DRAIN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, a 60 inch diameter storm drain pipeline is needed to connect the easterly portion of Village One to the existing West Basin, and

WHEREAS, prior to construction of a 60 inch diameter storm drain pipeline a temporary construction easement needs to be acquired in the future Hillglen Avenue, and

WHEREAS, the property needed for said easements for the project is identified as a portion of Assessor's Parcel No: 085-01-47, and is owned by Jim D. and Mariana Sanford and Richard Wayne Fritz and Ryan Alexander Fritz, and

WHEREAS, an Agreement is needed for the acquisition of the temporary construction easement, and

WHEREAS, the City of Modesto desires to acquire a temporary construction easement from Jim D. and Mariana Sanford and Richard Wayne Fritz and Ryan Alexander Fritz for Assessors Parcel No. 085-01-47,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for the amount of \$14,700.00 between the City of Modesto and Jim D. and Mariana Sanford and Richard Wayne Fritz and Ryan Alexander Fritz, for the Hillglen Avenue Storm Drain project is hereby approved.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

Approved as to Form:


MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-394**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY JIM D. AND MARIANA SANFORD AND RICHARD
WAYNE FRITZ AND RYAN ALEXANDER FRITZ, FOR ASSESSORS PARCEL
NO: 085-01-47, FOR THE HILLGLEN STORM DRAIN 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 from Jim D. and Mariana Sanford and Richard Wayne Fritz and Ryan Alexander Fritz, for a portion of Assessors Parcel No: 085-01-47, for the Hillglen Storm Drain 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Hillglen Storm Drain Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-395**

A RESOLUTION FINDING THAT THE HILLGLEN AVENUE STORM DRAIN PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM EIR (SCH NO. 90020181) AS AMENDED BY THE ADDENDUM FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE

WHEREAS, in 1990, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One final Program Environmental Impact Report (Village One EIR) (SCH # 90020181) was complete and adequate pursuant to California Environmental Quality Act (“CEQA”) Guidelines Section 15090, and

WHEREAS, in 1994, the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report (“Supplemental EIR”) for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One final Program EIR, and

WHEREAS, CEQA Guidelines Section 15164 permits the preparation of an addendum to a previously certified EIR if only minor technical changes or additions are necessary and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and

WHEREAS, on May 6, 2003, the Modesto City Council adopted Resolution No. 2003-223 certifying the Village One Storm Drainage Master Plan Update as an Addendum to the Village One EIR, as amended by the Supplemental EIR, and

WHEREAS, the Village One Storm Drainage Master Plan Update includes the installation of a 60” diameter storm drain pipeline on Hillglen Avenue, and

WHEREAS, the City plans to install the 60” diameter storm drain pipeline as a part of the Hillglen Avenue Storm Drain project, and

WHEREAS, public utility easements and temporary construction easements are required prior to the 60” diameter storm drain pipeline installation.

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

1. The project is within the scope of the Village One Program EIR as amended by the Addendum for the Village One Storm Drainage Master Plan Update.
2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR.
4. No new information, which was not known and could not have been known at the time the Village One Program EIR was certified as complete, has become available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council certifies that the Hillglen Avenue Storm Drain project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Storm Drainage Master Plan Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-396**

A RESOLUTION APPROVING AN AGREEMENT FOR \$17,300.00 BETWEEN THE CITY OF MODESTO AND WILLIS F. SANDERS (APN 085-01-21) FOR A PUBLIC UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT ACQUISITION FOR CONSTRUCTION OF A 60" STORM DRAIN PIPE WITH THE HILLGLEN STORM DRAIN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, a 60 inch diameter storm drain pipeline is needed to connect the easterly portion of Village One to the existing West Basin, and

WHEREAS, prior to construction of a 60 inch diameter storm drain pipeline a permanent public utility easement and temporary construction easement needs to be acquired in the future Hillglen Avenue, and

WHEREAS, the property needed for said easements for the project is identified as a portion of Assessor's Parcel No: 085-01-21, and is owned by Willis F. Sanders, and

WHEREAS, an Agreement is needed for the acquisition of the permanent public utility easement and temporary construction easement, and

WHEREAS, the City of Modesto desires to acquire a public utility easement and/or temporary construction easement from Willis F. Sanders for Assessors Parcel No. 085-01-21,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for the amount of \$17,300.00 between the City of Modesto and Willis F. Sanders, for the Hillglen Avenue Storm Drain project is hereby approved.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-397**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY WILLIS F. SANDERS, FOR ASSESSORS PARCEL
NO: 085-01-21, FOR THE HILLGLEN STORM DRAIN 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 from Willis F. Sanders, for a portion of Assessors Parcel No: 085-01-21, for the Hillglen Storm Drain 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Hillglen Storm Drain Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-398**

A RESOLUTION FINDING THAT THE HILLGLEN AVENUE STORM DRAIN PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM EIR (SCH NO. 90020181) AS AMENDED BY THE ADDENDUM FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE

WHEREAS, in 1990, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One final Program Environmental Impact Report (Village One EIR) (SCH # 90020181) was complete and adequate pursuant to California Environmental Quality Act (“CEQA”) Guidelines Section 15090, and

WHEREAS, in 1994, the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report (“Supplemental EIR”) for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One final Program EIR, and

WHEREAS, CEQA Guidelines Section 15164 permits the preparation of an addendum to a previously certified EIR if only minor technical changes or additions are necessary and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and

WHEREAS, on May 6, 2003, the Modesto City Council adopted Resolution No. 2003-223 certifying the Village One Storm Drainage Master Plan Update as an Addendum to the Village One EIR, as amended by the Supplemental EIR, and

WHEREAS, the Village One Storm Drainage Master Plan Update includes the installation of a 60” diameter storm drain pipeline on Hillglen Avenue, and

WHEREAS, the City plans to install the 60” diameter storm drain pipeline as a part of the Hillglen Avenue Storm Drain project, and

WHEREAS, public utility easements and temporary construction easements are required prior to the 60” diameter storm drain pipeline installation.

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

1. The project is within the scope of the Village One Program EIR as amended by the Addendum for the Village One Storm Drainage Master Plan Update.
2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR.
4. No new information, which was not known and could not have been known at the time the Village One Program EIR was certified as complete, has become available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council certifies that the Hillglen Avenue Storm Drain project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Storm Drainage Master Plan Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-399**

A RESOLUTION APPROVING AN AGREEMENT FOR \$2,000.00 BETWEEN THE CITY OF MODESTO AND JOHN S. RUSH (APN 085-01-10) FOR A TEMPORARY CONSTRUCTION EASEMENT ACQUISITION FOR CONSTRUCTION OF A 60" STORM DRAIN PIPE WITH THE HILLGLEN STORM DRAIN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, a 60 inch diameter storm drain pipeline is needed to connect the easterly portion of Village One to the existing West Basin, and

WHEREAS, prior to construction of a 60 inch diameter storm drain pipeline a temporary construction easement needs to be acquired in the future Hillglen Avenue, and

WHEREAS, the property needed for said easement for the project is identified as a portion of Assessor's Parcel No: 085-01-10, and is owned by John S. Rush, and

WHEREAS, an Agreement is needed for the acquisition of the temporary construction easement, and

WHEREAS, the City of Modesto desires to acquire a temporary construction easement from John S. Rush for Assessors Parcel No. 085-01-10,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for the amount of \$2,000.00 between the City of Modesto and John S. Rush, for the Hillglen Avenue Storm Drain project is hereby approved.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-400**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY JOHN S. RUSH, FOR ASSESSORS PARCEL NO: 085-
01-10, FOR THE HILLGLEN STORM DRAIN 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 from John S. Rush, for a portion of Assessors Parcel No: 085-01-10, for the Hillglen Storm Drain 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Hillglen Storm Drain Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-401**

A RESOLUTION FINDING THAT THE HILLGLEN AVENUE STORM DRAIN PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM EIR (SCH NO. 90020181) AS AMENDED BY THE ADDENDUM FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE

WHEREAS, in 1990, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One final Program Environmental Impact Report (Village One EIR) (SCH # 90020181) was complete and adequate pursuant to California Environmental Quality Act (“CEQA”) Guidelines Section 15090, and

WHEREAS, in 1994, the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report (“Supplemental EIR”) for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One final Program EIR, and

WHEREAS, CEQA Guidelines Section 15164 permits the preparation of an addendum to a previously certified EIR if only minor technical changes or additions are necessary and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and

WHEREAS, on May 6, 2003, the Modesto City Council adopted Resolution No. 2003-223 certifying the Village One Storm Drainage Master Plan Update as an Addendum to the Village One EIR, as amended by the Supplemental EIR, and

WHEREAS, the Village One Storm Drainage Master Plan Update includes the installation of a 60” diameter storm drain pipeline on Hillglen Avenue, and

WHEREAS, the City plans to install the 60” diameter storm drain pipeline as a part of the Hillglen Avenue Storm Drain project, and

WHEREAS, public utility easements and temporary construction easements are required prior to the 60” diameter storm drain pipeline installation.

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

1. The project is within the scope of the Village One Program EIR as amended by the Addendum for the Village One Storm Drainage Master Plan Update.
2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR.
4. No new information, which was not known and could not have been known at the time the Village One Program EIR was certified as complete, has become available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council certifies that the Hillglen Avenue Storm Drain project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Storm Drainage Master Plan Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-402**

A RESOLUTION APPROVING AN AGREEMENT FOR \$2,700.00 BETWEEN THE CITY OF MODESTO AND FRED A. RUELAS AND JANICE L. RUELAS (APN 085-01-67) FOR A TEMPORARY CONSTRUCTION EASEMENT ACQUISITION FOR CONSTRUCTION OF A 60" STORM DRAIN PIPE WITH THE HILLGLEN STORM DRAIN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, a 60 inch diameter storm drain pipeline is needed to connect the easterly portion of Village One to the existing West Basin, and

WHEREAS, prior to construction of a 60 inch diameter storm drain pipeline a temporary construction easement needs to be acquired in the future Hillglen Avenue, and

WHEREAS, the property needed for said easement for the project is identified as a portion of Assessor's Parcel No: 085-01-67, and is owned by Fred A. and Janice L. Ruelas, and

WHEREAS, an Agreement is needed for the acquisition of the temporary construction easement, and

WHEREAS, the City of Modesto desires to acquire a temporary construction easement from Fred A. and Janice L. Ruelas for Assessors Parcel No. 085-01-67,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for the amount of \$2,700.00 between the City of Modesto and Fred A. and Janice L. Ruelas, for the Hillglen Avenue Storm Drain project is hereby approved.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-403**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY FRED A. RUELAS AND JANICE L. RUELAS, FOR
ASSESSORS PARCEL NO: 085-01-67, FOR THE HILLGLEN STORM DRAIN
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 from Fred A. Ruelas and Janice L. Ruelas, for a portion of Assessors Parcel No: 085-01-67, for the Hillglen Storm Drain 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Hillglen Storm Drain Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-404**

A RESOLUTION FINDING THAT THE HILLGLEN AVENUE STORM DRAIN PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM EIR (SCH NO. 90020181) AS AMENDED BY THE ADDENDUM FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE

WHEREAS, in 1990, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One final Program Environmental Impact Report (Village One EIR) (SCH # 90020181) was complete and adequate pursuant to California Environmental Quality Act (“CEQA”) Guidelines Section 15090, and

WHEREAS, in 1994, the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report (“Supplemental EIR”) for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One final Program EIR, and

WHEREAS, CEQA Guidelines Section 15164 permits the preparation of an addendum to a previously certified EIR if only minor technical changes or additions are necessary and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and

WHEREAS, on May 6, 2003, the Modesto City Council adopted Resolution No. 2003-223 certifying the Village One Storm Drainage Master Plan Update as an Addendum to the Village One EIR, as amended by the Supplemental EIR, and

WHEREAS, the Village One Storm Drainage Master Plan Update includes the installation of a 60” diameter storm drain pipeline on Hillglen Avenue, and

WHEREAS, the City plans to install the 60” diameter storm drain pipeline as a part of the Hillglen Avenue Storm Drain project, and

WHEREAS, public utility easements and temporary construction easements are required prior to the 60” diameter storm drain pipeline installation.

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

1. The project is within the scope of the Village One Program EIR as amended by the Addendum for the Village One Storm Drainage Master Plan Update.
2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR.
4. No new information, which was not known and could not have been known at the time the Village One Program EIR was certified as complete, has become available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council certifies that the Hillglen Avenue Storm Drain project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Storm Drainage Master Plan Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-405**

A RESOLUTION APPROVING AN AGREEMENT FOR \$18,819.00 BETWEEN THE CITY OF MODESTO AND CHIA CHING & LI-LI HSIA (APN 085-01-60) FOR A PUBLIC UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT ACQUISITION OF PROPERTY FOR CONSTRUCTION OF A 60" STORM DRAIN PIPE WITH THE HILLGLEN STORM DRAIN PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ALL RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, a 60 inch diameter storm drain pipeline is needed to connect the easterly portion of Village One to the existing West Basin, and

WHEREAS, prior to construction of a 60 inch diameter storm drain pipeline a permanent public utility easement and temporary construction easement needs to be acquired in the future Hillglen Avenue, and

WHEREAS, the property needed for said easements for the project is identified as a portion of Assessor's Parcel No: 085-01-60, and is owned by Chia Ching & Li-Li Hsia, and

WHEREAS, an Agreement is needed for the acquisition of the permanent public utility easement and temporary construction easement, and

WHEREAS, the City of Modesto desires to acquire a public utility easement and/or temporary construction easement from Chia Ching & Li-Li Hsia for Assessors Parcel No. 085-01-60,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for the amount of \$18,819.00 between the City of Modesto and Chia Ching & Li-Li Hsia, for the Hillglen Avenue Storm Drain project is hereby approved.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-406**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN
ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF
PROPERTY OWNED BY CHIA CHING & LI-LI HSIA, FOR ASSESSORS
PARCEL NO: 085-01-60, FOR THE HILLGLEN STORM DRAIN 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 from Chia Ching & Li-Li Hsia, for a portion of Assessors Parcel No: 085-01-60, for the Hillglen Storm Drain 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Hillglen Storm Drain Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-407**

A RESOLUTION FINDING THAT THE HILLGLEN AVENUE STORM DRAIN PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM EIR (SCH NO. 90020181) AS AMENDED BY THE ADDENDUM FOR THE VILLAGE ONE STORM DRAINAGE MASTER PLAN UPDATE

WHEREAS, in 1990, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One final Program Environmental Impact Report (Village One EIR) (SCH # 90020181) was complete and adequate pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15090, and

WHEREAS, in 1994, the Modesto City Council adopted Resolution No. 94-297, certifying that the Final Supplemental Environmental Impact Report ("Supplemental EIR") for the Village One EIR (SCH# 90020181) was complete and adequate, which superseded and amended the original Village One final Program EIR, and

WHEREAS, CEQA Guidelines Section 15164 permits the preparation of an addendum to a previously certified EIR if only minor technical changes or additions are necessary and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and

WHEREAS, on May 6, 2003, the Modesto City Council adopted Resolution No. 2003-223 certifying the Village One Storm Drainage Master Plan Update as an Addendum to the Village One EIR, as amended by the Supplemental EIR, and

WHEREAS, the Village One Storm Drainage Master Plan Update includes the installation of a 60" diameter storm drain pipeline on Hillglen Avenue, and

WHEREAS, the City plans to install the 60" diameter storm drain pipeline as a part of the Hillglen Avenue Storm Drain project, and

WHEREAS, public utility easements and temporary construction easements are required prior to the 60" diameter storm drain pipeline installation.

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

1. The project is within the scope of the Village One Program EIR as amended by the Addendum for the Village One Storm Drainage Master Plan Update.

2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR.
3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Program EIR.
4. No new information, which was not known and could not have been known at the time the Village One Program EIR was certified as complete, has become available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council certifies that the Hillglen Avenue Storm Drain project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Storm Drainage Master Plan Update.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-408

**A RESOLUTION ACCEPTING THE PROJECT TITLED "OUTFALL
REHABILITATION – PHASE 2" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Outfall Rehabilitation – Phase 2", has been completed by Ebert/Stacy and Witbeck, a joint venture, in accordance with the contract agreement dated December 10, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "Outfall Rehabilitation – Phsae 2" project be accepted from said contractor, Ebert/Stacy and Witbeck, a joint venture, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,031,272.33 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By



MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-409**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "2003 HANDICAP
RAMP CONSTRUCTION" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "2003 Handicap Ramp Construction", has been completed by BDS Construction, Inc., in accordance with the contract agreement dated January 7, 2003,

NOW, THEREFORE, BE IT RESOLVED that the "2003 Handicap Ramp Construction" project be accepted from said contractor, BDS Construction, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$287,284 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-410**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF BUSINESS CARDS, LETTERHEAD AND PRINTED ENVELOPES ON A "CITY WIDE" BASIS, FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.

WHEREAS, in order to provide a more efficient, cost effective means for the City to order business cards, letterhead and printed envelopes, the Purchasing Division submitted a Request for Information (RFI) to prospective vendors for electronic ordering of these printed documents, and

WHEREAS, the RFI was submitted to twenty-two (22) companies, and

WHEREAS, eight (8) companies responded with having the capabilities of providing services outlined in the RFI, and

WHEREAS, these eight (8) companies shall become the core list of vendors for the Request for Bid (RFB), and

WHEREAS, City departments and divisions will be able to place orders on-line by means of an electronic account accessed by an electronic pass code, and

WHEREAS, the account will be specific to that department or division and will include the billing address, delivery address and authorized personnel able to place orders, and

WHEREAS, the Purchasing Division shall maintain the "City Wide" list of accounts and pass codes, and

WHEREAS, when placing an order a color template of the requested document will appear on-line, and

WHEREAS, the template will consist of the City's logo and name set in a pre-determined location on the document, and

WHEREAS, the requestor will then input all of the specific information pertaining to the order onto the template, and

WHEREAS, once the information is entered the template becomes the proof, and

WHEREAS, the proof is confirmed when the requestor executes the order, and

WHEREAS, two (2) delivery schedules will be available to the City, and

WHEREAS, for critical needs departments can place orders for a two (2) business day turnaround, and

WHEREAS, for non-critical needs a seven (7) business day turnaround will be available at a reduced cost, and

WHEREAS, seven (7) business days allows the vendor to accumulate orders for gang-runs, thus providing a cost reduction to the City, and

WHEREAS, a pricing schedule will be provided at order entry, and

WHEREAS, on-line ordering will expedite the order process, and

WHEREAS, at the time of order entry the requestor shall have the ability to review and confirm a color proof, and

WHEREAS, once the requestor executes the order, the order can then be scheduled into production, and

WHEREAS, this process reduces staff time by eliminating the need to fax or mail proofs and reduces paper consumption, and

WHEREAS, on-line ordering is the tool of the future, and

WHEREAS, these stationery items are the perfect medium for this process, and

WHEREAS, Modesto Municipal Code (MMC) 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, by soliciting competitive bids for business cards, letterhead, and printed envelopes the Finance Department Purchasing Division will comply with MMC Section 8-3.203 regarding formal bid procedures,

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 competitive sealed bids for the purchase of business cards, letterhead and printed envelopes on a "City Wide" basis, for a three (3) year agreement with two (2) one-year extension options, 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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-411**

A RESOLUTION AUTHORIZING THE AWARD OF REQUEST FOR PROPOSAL NO. 0203-28 FOR FUEL CARDLOCK SERVICES TO BOYETT PETROLEUM OF MODESTO, CA, FOR AN ESTIMATED ANNUAL AMOUNT OF \$1.5 MILLION DOLLARS FOR AN INITIAL PERIOD OF THREE (3) YEARS, WITH TWO (2) ONE YEAR EXTENSION OPTIONS AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BOYETT PERTOLEUM TO PROVIDE FUEL CARDLOCK SERVICES TO THE CITY

WHEREAS, the Fleet Services Division of the Operations and Maintenance Department – Water Division has requested the purchase of fuel card lock services, and

WHEREAS, the existing fuel card lock services contract had expired, and

WHEREAS, Request for Proposals were issued in April of 2002 for Fuel Cardlock services, and

WHEREAS, two (2) responsive proposals were received and one of the proposers alleged that the RFP process was flawed, and

WHEREAS, based on allegations of a flawed process, Council authorized rejecting all responses in Resolution No. 2002-589, and authorized the Purchasing Supervisor to re-issue the RFP, and

WHEREAS, in December of 2002, the re-issuance of the RFP went before the Finance Committee for specific changes to specifications and evaluation criteria, and

WHEREAS, some of the suggested changes are as follows:

- Award language based on total evaluation criteria
- Hold a proposer's conference
- Allow for protests during the RFP process
- Award criteria and weighting to be disclosed in bid.
- Pricing to be weighted more heavily.
- Try and achieve objectivity vs subjectivity
- Councilmember to observe evaluation process

- Evaluation Committee should have impartial subject matter experts, and

WHEREAS, on April 21, 2003, RFP No. 0203-28 was mailed to twenty-four (24) prospective proposers , was advertised in the Modesto Bee and was posted on the Purchasing web page, and

WHEREAS, the RFP incorporated all of the above suggested changes, and

WHEREAS, two (2) responses were received and opened on May 27, 2003 and both were considered to be responsive based on the new requirements, and

WHEREAS, the two (2) responses were then moved to an evaluation committee for evaluation based on total evaluation criteria, and

WHEREAS, the evaluation was comprised of representatives from the Purchasing and Fleet Divisions, as well as subject matter experts from the cities of Fresno and Livermore, and

WHEREAS, the committee toured three sites from each proposer to evaluate the fueling functionality of each site with heavy and light City vehicles, and

WHEREAS, at each site the committee took notes and digital pictures to document fueling site functionality, and

WHEREAS, the committee then met to evaluate each proposer based on site visits and historical fueling data, and

WHEREAS, the committee's weightings per evaluation criteria are listed below.

Evaluation Criteria and Weighting as approved by Council	Possible Points	W.H.Breshears	Boyett
Relevant Experience	5	5	5
Company Background	5	5	5
Fuel Sites and Hours of Operations	30	27	30
Auditing, QA Programs, Reporting Systems	25	25	25
Pricing	<u>35</u>	<u>28</u>	<u>35</u>
Total Points	100	90	100

and

WHEREAS, the weightings for pricing are based on combined mark-ups that factors both base and surcharge markups, and

WHEREAS, MMC 8-3.203 allows for consideration to be given to factors other than price alone in determining the "lowest responsive and responsible proposer", and

WHEREAS, based on total evaluation criteria, as determined by the evaluation committee, staff hereby recommends awarding the contract for Fuel Cardlock Services to Boyett Petroleum, of Modesto, CA, for an estimated annual amount of \$1.5 million dollars. and

WHEREAS, the initial term of the agreement shall be for a period of three (3) years, with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the Request for Proposal (RFP) No. 0203-28, for Fuel Cardlock Services to Boyett Petroleum of Modesto, CA, for an initial period of three (3) years, with two (2) one-year extension options.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a contract with Boyett Petroleum, of Modesto, CA to provide said Fuel Cardlock Services to the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-412**

A RESOLUTION AWARDING A BID TO AMERICAN AVK COMPANY OF FRESNO CA. FOR FIRE HYDRANTS AND CAPS IN THE AMOUNT OF \$85,386.75, AND TO FERGUSON ENTERPRISES OF ROSEVILLE, CA. FOR WATER VALVES IN THE AMOUNT OF \$135,655.28. THE TOTAL ESTIMATED ANNUAL AMOUNT FOR WATER VALVES AND FIRE HYDRANTS IS \$221,042.03.

WHEREAS, the Finance Department-Central Stores Division has request the purchase of water valves and fire hydrants, and

WHEREAS, Resolution 2003-185 authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for water valves and fire hydrants, and

WHEREAS, the term of the contracts(s) shall be from August 1, 2003, through July 31, 2004, with the City reserving the right to extend the contract for two one-year contract extensions, up to and including July 31, 2006, contingent upon availability of continuous funding for said purpose, and

WHEREAS, the City's fire hydrants are being replaced at a rate of 30 per week, and

WHEREAS, water valves are used to replace existing valves with may be non-operable, to extend existing water lines, and for new service to new business, and

WHEREAS, bids were opened and recorded in the City Clerk's office on June 17, 2003, and

WHEREAS, out of twenty (22) vendors solicited, five (5) responded to the RFB, and

WHEREAS, two of the five bids received, were deemed to be noncompliant because bidder did not provide two signed original bid documents per RFB 0203-29, and

WHEREAS, to obtain the best value for dollars spent, the items on the Request for Bid are being awarded by line item to American AVK Company and Ferguson Enterprises, and

WHEREAS, American AVK Company of Fresno, Ca. is the lowest responsive and responsible bidder for fire hydrants, with a total estimated annual cost of \$85,386.75, and

WHEREAS, Ferguson Enterprise of Roseville, Ca. is the lowest responsive and responsible bidder for water valves with a total estimated annual cost of \$135,655.28, and

WHEREAS, the total estimated annual cost for water valves and fire hydrants is \$221,042.03, and

WHEREAS, by soliciting formal bids for water valves and fire hydrants, the Finance Department, Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as that it hereby awards the bid for fire hydrants and caps to American AVK Company of Fresno, Ca. for \$85,386.75, and awards the bid for water valves to Ferguson Enterprises of Roseville, Ca. for an estimated annual cost of \$135,655.28.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-413**

A RESOLUTION ACCEPTING \$48,370.89 IN GRANT FUNDING FROM THE STATE DEPARTMENT OF FORESTRY AND FIRE PROTECTION, URBAN AND COMMUNITY FORESTRY PROGRAM (PROPOSITION 12) FOR THE TREES FOR TOTS COMMUNITY TREE PLANTING PROJECT

WHEREAS, California voters passed Proposition 12, Watershed, Wildlife and Parks Improvement Bond Act of 2000, which fund can be used for tree planting programs, and

WHEREAS, on May 28, 2002, the City Council authorized staff to submit an application for funding under the Urban and Community Forestry Program (Proposition 12) for funding 74% of the Trees for Tots Community Tree Planting Project, with the balance of matching funds to be provided from local Community Forestry operating budget funds, and

WHEREAS, on October 3, 2002, staff received grant approval and executed a contract with the Department of Forestry and Fire Protection for the above project with a grant award in the amount of \$48,370.89, and

WHEREAS, staff has General Fund as a source for the required \$16,971.14 match,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts \$48,370.89 in funding under the Urban and Community Forestry Program (Proposition 12) for the Trees for Tots Community Tree Planting Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-414**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 BUDGET TO ESTIMATE \$48,370.89 IN REVENUE FROM THE STATE DEPARTMENT OF FORESTRY AND FIRE PROTECTION, URBAN COMMUNITY FORESTRY PROGRAM (PROPOSITION 12), TO DIVERT A MATCH OF \$16,971.14 FROM THE GENERAL FUND TRANSFER TO GAS TAX STREETS FUND, AND APPROPRIATE \$65,342.03 TO GRANT PROJECT 0410-480-4805 FOR THE TREES FOR TOTS COMMUNITY TREE PLANTING PROGRAM

WHEREAS, on May 28, 2002, by Resolution Number 2002-262, the Council authorized staff to submit an application for funding under the State Department of Forestry and Fire Protection, Urban Community Forestry Program (Proposition 12) for funding for the Trees for Tots Community Tree Planting Program, with matching funds to be provided from the local Community Forestry operating budget, and

WHEREAS, on October 3, 2002, staff received a grant contract for \$48,370.89 for the above project, and

WHEREAS, staff has identified a portion of the diverted General Fund transfer to Gas Tax Streets Fund as a source for the required \$16,971.14 match,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the fiscal year 2003-2004 budget to estimate \$48,370.89 in revenue from the California Department of Forestry and Fire Protection Urban and Community Forestry Program (Proposition 12), to transfer \$16,971.14 from the diverted General Fund transfer to Gas Tax Streets Fund, and to appropriate \$65,342.01 to grant fund 0410-480-4805, Trees for Tots.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-415**

**A RESOLUTION APPOINTING THE MEMBERS OF THE PUBLIC EVENTS
COMMITTEE AS THE BOARD OF DIRECTORS OF THE MODESTO
CONVENTION AND VISITORS BUREAU**

WHEREAS, the Modesto Convention and Visitors Bureau has provided
Convention and Visitors Bureau services as a City organization in fiscal year 2002/2003,
and

WHEREAS, on February 25, 2003, the City Council established the Modesto
Convention and Visitors Bureau as an independent, non-profit corporation and adopted
the bylaws and articles of incorporation for the Modesto Convention and Visitors Bureau
as an independent, non-profit corporation, and

WHEREAS, on June 24, 2003, the City Council approved an agreement between
the Modesto Convention and Visitors Bureau (CVB) and the City of Modesto which
outlines the business relationship between the parties, and

WHEREAS, the Modesto Convention and Visitors Bureau will operate as an
independent, non-profit corporation as of July 30, 2003, and

WHEREAS, a Board of Directors is needed for the CVB, and

WHEREAS, the Public Events Committee has been serving in a similar capacity,
the names of whom are shown in Exhibit "A", attached hereto and incorporated herein by
reference, and

WHEREAS, the bylaws also call for a member of the City Council to serve as an
ex-officio member of the Board, and

WHEREAS, Mayor Sabatino has appointed himself as the ex-officio member,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints the members of the Public Events Committee, as set forth in Exhibit "A", as the Board of Directors of the Modesto Convention and Visitor Bureau,

BE IT FURTHER RESOLVED that Mayor Sabatino is hereby appointed as the ex-officio member representing 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 July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

Due to clerical error, Resolution No. 2003-415 was not signed until October 18, 2016.

Modesto Convention and Visitors Bureau
Board of Directors

Cindy Powers

Chris Murphy

Dana Plummer

Susan Azevedo

Ernie Foot

Derik Dami

Neal Khatri

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-416**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/04 BUDGET TO
TRANSFER FUNDS FROM THE TRAFFIC SAFETY FUND TO THE GENERAL
FUND - POLICE OPERATIONS FOR THE PURCHASE OF TRAFFIC-
RELATED EQUIPMENT**

WHEREAS, the City of Modesto Police Department Traffic Unit has several unmet equipment needs and acquisition of this equipment will enable the Unit to provide the most effective traffic enforcement possible, and

WHEREAS, costs for said equipment are \$112,784, and

WHEREAS, the Traffic Safety Fund has monies available for these purchases, and

WHEREAS, the Safety and Communities Committee unanimously recommended purchase of this equipment at its meeting of May 5, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/04 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 0600-190-1906-Various Objects Traffic Safety Equipment

Appropriate:

From: 0600-800-8000-8003 Reserves

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 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-417**

A RESOLUTION APPROVING THE FOLLOWING REPORTS PRODUCED FROM THE COUNTY-WIDE ESI ECONOMIC DEVELOPMENT STRATEGIC PLAN STUDY: (1) "SETTING THE STAGE – CHOICES FOR THE FUTURE" – EXECUTIVE SUMMARY; (2) "CITY OF MODESTO ECONOMIC DEVELOPMENT PLAN"; (3) "ECONOMIC DEVELOPMENT MARKETING STRATEGY IMPLEMENTATION WORKBOOK"

WHEREAS, as a continuation of the regional, County-wide efforts for the expansion of economic development, the City of Modesto joined with Stanislaus County, the Stanislaus County Economic and Workforce Alliance (the "Alliance"), the Workforce Investment Board (the "WIB") and six other county cities to embark on an economic development project, and

WHEREAS, the purpose of said project was to create a series of County-wide economic development plans incorporated into sound marketing strategies, and

WHEREAS, the "Stanislaus County Economic Development Strategy and Marketing Plan" was produced by a professional team of economic development firms including ESI Corporation (coordination and general economic development), Paragon Decision Resources (site location specialists) and Chabin Concepts (marketing), and

WHEREAS, as an integral part of said project an Economic Development Committee was formed in Modesto to provide input from both the public and private sectors, and

WHEREAS, in order for Stanislaus County and each of its cities to accelerate job creation, the County and each of its cities must implement coordinated economic development activities in accordance with adopted plans which, when used together, will

become the blueprint for determining roles and responsibilities for economic development and allocation of resources for the entire region.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the following reports produced from the county-wide ESI economic development Strategic Plan study are hereby approved, a copy of said reports are on permanent file in the Office of the City Clerk:

1. *“Setting the Stage – Choices for the Future” – Executive Summary*
2. *“City of Modesto Economic Development Plan”*
3. *“Economic Development Marketing Strategy Implementation Workbook”*

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of July, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-418**

A RESOLUTION AUTHORIZING REIMBURSEMENT IN THE AMOUNT OF \$207,092 FROM COMMUNITY FACILITIES DISTRICT NO. 1996-1 (VILLAGE ONE) AND THE YET TO BE FORMED VILLAGE ONE CFD #2 TO THE CITY OF MODESTO'S CAPITAL FACILITIES FEES PROGRAM FOR FUNDS ADVANCED FOR THE CONSTRUCTION OF USTACH NEIGHBORHOOD PARK

WHEREAS, the City of Modesto ("City") proposes to build a project entitled "Ustach Neighborhood Park" ("Project") which will be funded through Community Facilities District No. 1996-1, the yet to be formed Village One CFD #2 ("Village One CFD") and the City of Modesto's Capital Facilities Fees program ("CFF"),

WHEREAS, the Project is an authorized facility of the Village One CFD, and

WHEREAS, the Village One CFD has programmed \$395,000 for the Project as a Priority 1 item and \$225,000 for the Project as a Priority 2 item, and

WHEREAS, in April 2003 the City Council appropriated the Priority 1 funds for Phases 1 & 2 of the Project but could not appropriate the Priority 2 monies for Phases 3, 4, & 5 of the Project because funds were not yet available, and

WHEREAS, on or about April 23, 2003, the City solicited bids for the Project and included the work to be funded with Priority 2 funds as a bid alternate, and

WHEREAS, due to the favorable construction bids received, a Project savings of \$40,320 will be realized (Village One CFD = \$17,908 and CFF = \$22,412) if the City proceeds with the Priority 2 work in conjunction with all other work on the Project, and

WHEREAS, on June 24, 2003 the City Council awarded a contract to Goodland Landscape Construction Inc. for construction of the Project and appropriated the remainder of the funds for the Project from CFF into CIP account number Q200, and

WHEREAS, Government Code Section 53314.5 provides that the City may appropriate available moneys to a revolving fund a community facilities district facility so long as the City establishes a mechanism for the community facilities district to reimburse the fund, with interest, within five years, at the current rate per annum received on similar types of investments by the City, and

WHEREAS, the City of Modesto is currently receiving a 2.537% rate of return on its investments.

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

1. The project entitled "Ustach Neighborhood Park" ("Project") will be funded through Community Facilities District No. 1996-1, the yet to be formed Village One CFD #2 ("Village One CFD") and the City of Modesto's Capital Facilities Fees program ("CFF").
2. The Project is an authorized facility of the Village One CFD.
3. Approximately \$620,000 of the Project which is programmed to be funded through Village One CFD, \$395,000 of which is identified as a Priority 1 project and has already been appropriated for this project.
4. The remaining \$225,000 which is programmed to be funded through the Village One CFD is designated as a Priority 2 project for which CFD funds are not yet available.
5. On or about April 23, 2003, the City solicited bids for the Project and included the work to be funded with Priority 2 funds as a bid alternate.
6. Due to the favorable construction bids received, a Project savings of \$40,320 will be realized with the Village One CFD realizing a savings of \$17,908 and CFF realizing a savings of \$22,412 if the City proceeds with the Priority 2 work in conjunction with all other work on the Project.
7. The CFF program has been authorized to advance funds for work that is funded through the CFD and designated as Priority 2 work.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Village One CFD shall reimburse the CFF program in the amount of \$207,092 (\$225,000 programmed amount minus \$17,908 savings) with interest at the rate of 2.537% per annum. Interest shall accrue from the date the first disbursement is made from CIP account Q200 until paid in full.

BE IT FURTHER RESOLVED that the CFD shall reimburse the CFF program from tax monies within sixty (60) days after Priority 2 funds are available for the Ustach Neighborhood Park project, or within five (5) years, whichever occurs first. City hereby

recognizes and acknowledges that should tax moneys not be available for Priority 2 projects within five (5) years after disbursement is made from the fund, then it shall be required to review and redesignate the priority status for the Priority 2 work to ensure that the reimbursement will occur within the period required by law.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-419**

A RESOLUTION WAIVING FORMAL BIDDING REQUIREMENTS BY FIVE AFFIRMATIVE VOTES AND AWARDING A CONTRACT FOR THE PROCUREMENT OF UPGRADED FARE COLLECTION EQUIPMENT AND DATA COLLECTION SYSTEM FOR MODESTO AREA EXPRESS BUSES TO GFI GENFARE IN THE AMOUNT OF \$186,717.50

WHEREAS, tracking ridership and fare revenues is an important component of operating an efficient public transit operation, and

WHEREAS, the City of Modesto has successfully used the GFI Genfare fare and data collection systems to collect fares and rider data for over 12 years, and

WHEREAS, that farebox and data system is in need of an upgrade, and

WHEREAS, an upgrade of the existing system can only be procured from the manufacturer of the current system, and

WHEREAS, the City of Modesto Transit Division has budgeted and planned for the upgrade to the fareboxes and data system during the 2003-2004 fiscal year.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby waives the formal bidding requirements by five affirmative votes and awards a contract for the sole source procurement of farebox upgrades and a new data collection system for Modesto Area Express buses to GFI Genfare for a total cost of \$186,717.50.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO.2003-420**

A RESOLUTION APPROVING A VEHICLE PROCUREMENT AND LEASE AGREEMENT WITH THE CITY OF CERES TO PURCHASE A VAN WITH CERES' FUNDS FOR THE CERES FIXED-ROUTE BUS SERVICE AND LEASE IT AT NO COST TO THE CITY OF CERES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Ceres received Congestion Mitigation and Air Quality (CMAQ) funds for the purchase of a van for its transit service, and

WHEREAS, the City of Ceres is not certified by the Federal Transit Administration (FTA) to make purchases with FTA funds, and

WHEREAS, the City of Modesto is certified by the FTA to make purchases with FTA funds, and

WHEREAS, the City of Modesto wishes to assist the City of Ceres with its fixed route transit service to ensure its success, and

WHEREAS, the Economic Development Committee met on July 7, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated July 24, 2003, from the Engineering and Transportation Director, City staff recommended that the Council enter into an agreement with the City of Ceres for the purchase of a van with Ceres' funds by the City of Modesto to be leased to the City of Ceres at no cost for use in its transit service,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Vehicle Procurement and Lease Agreement with the City of Ceres for the purchase of a van by the City of Modesto with Ceres' funds to be leased to the City of Ceres at no cost for use in its fixed route bus service.

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 August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 421**

**A RESOLUTION AMENDING THE FISCAL YEAR
2003-2004 ANNUAL 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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

Budget Adjustments for the Month of July 2003

<u>Engineering & Transportation</u>							
		FROM					
APPROPRIATIONS	Airport Reserves	6310-800-8000-8003	6310R			(\$60,000)	(\$60,000)
		TO					
APPROPRIATIONS	Non-Capital Other	6310-440-5412-5900	5412C	\$75,000		\$60,000	\$135,000
<u>Justification</u>							
Appropriate funds from the Airport Reserves to purchase an airport sign not purchased in FY 02-03							
<u>Community Facilities District - Village One</u>							
		FROM					
APPROPRIATIONS	Construction Cost	2600-020-Q302-6040	Q302	\$2,661,000		(\$80,000)	\$2,581,000
APPROPRIATIONS	Engineering/Design	2600-020-Q302-6010	Q302	\$26,700		(\$8,000)	\$18,700
APPROPRIATIONS	Construction Contingency	2600-020-Q302-6050	Q302	\$399,000		(\$12,000)	\$387,000
APPROPRIATIONS	Construction Admin	2600-020-Q302-6060	Q302	\$267,000		(\$8,000)	\$259,000
		TO					
APPROPRIATIONS	Construction Cost	2600-020-Q309-6040	Q309	\$779,000		\$80,000	\$859,000
APPROPRIATIONS	Engineering/Design	2600-020-Q309-6010	Q309	\$78,000		\$8,000	\$86,000
APPROPRIATIONS	Construction Contingency	2600-020-Q309-6050	Q309	\$117,000		\$12,000	\$129,000
APPROPRIATIONS	Construction Admin	2600-020-Q309-6060	Q309	\$78,000		\$8,000	\$86,000
<u>Justification</u>							
Move V1 Project SD-206 (Priority 1) from CIP Q302 to Q309							

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 422**

**A RESOLUTION ORDERING THE LEVY AND COLLECTION OF
ASSESSMENTS WITHIN IMPROVEMENT DISTRICT #28 – SEWER
IMPROVEMENTS**

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Improvement District #28 – Sewer Improvements (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 10000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500, and

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the sewer improvements, and

WHEREAS, the City Council 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 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 within the District for the 2003-04 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 2003-04 County tax roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney

City of Modesto

2003/04 Budget Worksheet
Local Improvement District No. 28

Fund Number M5

Levy Components	2002/03	2003/04
PRINCIPAL AND INTEREST		
Principal	\$68,119.95	\$71,613.62
Interest	10,362.15	5,300.07
TOTAL	\$78,482.10	\$76,913.69
ADMINISTRATION COSTS		
Agency Administration	\$1,558.78	\$1,559.00
Agency Auditor Fees	0.00	0.00
County Auditor and Assessor Fees	68.00	92.00
Registrar/Transfer/Paying Agent Fees	932.00	932.00
Consulting Services	3,995.93	4,073.27
Total Fixed Admin Charge	0.00	0.00
Miscellaneous/Other Fees	0.00	0.00
Remaining Statutory Collection Fee	0.00	0.00
Admin Sub Total	6,554.71	6,656.27
Delinquency Management Allowance	0.00	0.00
Escaped Levies	0.00	0.00
TOTAL ADMIN	\$6,554.71	\$6,656.27
Total Principal, Interest and Admin Costs	\$85,036.81	\$83,569.96
Fixed Admin Charge per Parcel	\$0.00	\$0.00
CREDITS APPLIED TO LEVY		
Construction Fund Credit	\$0.00	\$0.00
Reserve Fund Credit	0.00	45,454.00
Redemption Fund Credit	0.00	20,000.00
Miscellaneous/Adjustment Credit	11,000.00	0.00
TOTAL	\$11,000.00	\$65,454.00
TOTAL CHARGE		
Total Charge	\$74,036.81	\$18,115.96
Applied Charge	\$74,035.90	\$18,114.92
Difference (due to rounding)	-\$0.91	-\$1.04
ADDITIONAL INFORMATION		
Number of Parcels Charged	210	209
Statutory Collection Fee	\$3,212.94	\$3,157.43
Admin Costs as a percent of Annual Levy	8.35%	8.65%

Notes:

- (1) Consulting services include, but are not limited to: District Rebate Calculation Fees and Municipal Disclosure Fees.
- (2) The Difference is used to ensure that each parcel's levy amount is required by the County Auditor-Controller.
- (3) The Statutory Collection Fee is a maximum of 5 percent of the levy \$16 per parcel, per year and is used to cover Administrative Fees Agency as allowed by Section 8682 of the California Streets and
- (4) Remaining Statutory Collection Fee is the difference between the Administrative Fees to be recovered and the Statutory Collection Fee.

LEVY APPROVED BY: _____

B. Quisenberry

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 423**

**A RESOLUTION ORDERING THE LEVY AND COLLECTION OF
ASSESSMENTS WITHIN IMPROVEMENT DISTRICT #29 – STREET AND
WATER SYSTEM IMPROVEMENTS**

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Improvement District #29 – Street and Water System Improvements (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 10000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500, and

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the street and water system improvements; and

WHEREAS, the City Council 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 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 within the District for the 2003-04 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 2003-04 County tax roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

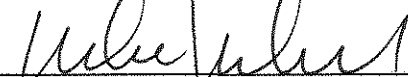


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By



MICHAEL D. MILICH, City Attorney

City of Modesto

2003/04 Budget Worksheet
Local Improvement District No. 29

Fund Number M0

Levy Components	2002/03	2003/04
PRINCIPAL AND INTEREST		
Principal	\$84,056.22	\$89,000.77
Interest	25,177.34	19,545.57
TOTAL	\$109,233.56	\$108,546.34
ADMINISTRATION COSTS		
Agency Administration	\$1,685.00	\$1,685.00
Agency Auditor Fees	0.00	0.00
County Auditor and Assessor Fees	117.00	67.80
Registrar/Transfer/Paying Agent Fees	3,178.00	3,181.00
Consulting Services	1,480.67	1,601.00
Total Fixed Admin Charge	0.00	0.00
Miscellaneous/Other Fees	0.00	0.00
Remaining Statutory Collection Fee	0.00	0.00
Admin Sub Total	6,460.67	6,534.80
Delinquency Management Allowance	0.00	0.00
Escaped Levies	0.00	0.00
TOTAL ADMIN	\$6,460.67	\$6,534.80
Total Principal, Interest and Admin Costs	\$115,694.23	\$115,081.14
Fixed Admin Charge per Parcel	\$0.00	\$0.00
CREDITS APPLIED TO LEVY		
Construction Fund Credit	\$0.00	\$0.00
Reserve Fund Credit	0.00	0.00
Redemption Fund Credit	0.00	0.00
Miscellaneous/Adjustment Credit	0.00	9,000.00
TOTAL	\$0.00	\$9,000.00
TOTAL CHARGE		
Total Charge	\$115,694.23	\$106,081.14
Applied Charge	\$115,694.38	\$106,081.18
Difference (due to rounding)	\$0.15	\$0.04
ADDITIONAL INFORMATION		
Number of Parcels Charged	89	89
Statutory Collection Fee	\$1,424.00	\$1,424.00
Admin Costs as a percent of Annual Levy	5.91%	6.02%

Notes:

- (1) Consulting services include, but are not limited to: District Rebate Calculation Fees and Municipal Disclosure Fees.
- (2) The Difference is used to ensure that each parcel's levy amount is required by the County Auditor-Controller.
- (3) The Statutory Collection Fee is a maximum of 5 percent of the levy \$16 per parcel, per year and is used to cover Administrative Fees Agency as allowed by Section 8682 of the California Streets and
- (4) Remaining Statutory Collection Fee is the difference between the Administrative Fees to be recovered and the Statutory Collection Fee.

LEVY APPROVED BY: _____

B. Quisenberry

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 424**

**A RESOLUTION ORDERING THE LEVY AND COLLECTION OF
ASSESSMENTS WITHIN PUBLIC FACILITIES DISTRICT #6 – STREET
AND WATER SYSTEM IMPROVEMENTS**

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Public Facilities District #6 – Street and Water Improvements (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 10000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500, and

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the street and water system improvements, and

WHEREAS, the City Council 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 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 within the District for the 2003-04 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 2003-04 County tax roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM

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

City of Modesto

2003/04 Budget Worksheet
Public Facilities District No. 6

Fund Number M7

Levy Components	2002/03	2003/04
PRINCIPAL AND INTEREST		
Principal	\$23,081.38	\$27,697.66
Interest	5,571.84	3,933.07
TOTAL	\$28,653.22	\$31,630.73
ADMINISTRATION COSTS		
Agency Administration	\$481.97	\$482.00
Agency Auditor Fees	0.00	0.00
County Auditor and Assessor Fees	27.00	52.20
Registrar/Transfer/Paying Agent Fees	1,625.00	1,628.00
Consulting Services	241.20	273.58
Total Fixed Admin Charge	0.00	0.00
Miscellaneous/Other Fees	0.00	0.00
Remaining Statutory Collection Fee	0.00	0.00
Admin Sub Total	2,375.17	2,435.78
Delinquency Management Allowance	0.00	0.00
Escaped Levies	0.00	0.00
TOTAL ADMIN	\$2,375.17	\$2,435.78
Total Principal, Interest and Admin Costs	\$31,028.39	\$34,066.51
Fixed Admin Charge per Parcel	\$0.00	\$0.00
CREDITS APPLIED TO LEVY		
Construction Fund Credit	\$0.00	\$0.00
Reserve Fund Credit	0.00	0.00
Redemption Fund Credit	0.00	0.00
Miscellaneous/Adjustment Credit	0.00	0.00
TOTAL	\$0.00	\$0.00
TOTAL CHARGE		
Total Charge	\$31,028.39	\$34,066.51
Applied Charge	\$31,028.36	\$34,066.52
Difference (due to rounding)	-\$0.03	\$0.01
ADDITIONAL INFORMATION		
Number of Parcels Charged	11	11
Statutory Collection Fee	\$166.46	\$167.13
Admin Costs as a percent of Annual Levy	8.29%	7.70%

Notes:

- (1) Consulting services include, but are not limited to: District Rebate Calculation Fees and Municipal Disclosure Fees.
- (2) The Difference is used to ensure that each parcel's levy amount is required by the County Auditor-Controller.
- (3) The Statutory Collection Fee is a maximum of 5 percent of the levy \$16 per parcel, per year and is used to cover Administrative Fees Agency as allowed by Section 8682 of the California Streets and
- (4) Remaining Statutory Collection Fee is the difference between the Administrative Fees to be recovered and the Statutory Collection Fee.

LEVY APPROVED BY: _____

B. Ouellet

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-425**

**A RESOLUTION APPROVING THE DEVELOPMENT, IMPLEMENTATION
AND GRANT APPLICATION FOR RECOGNITION OF THE WEED & SEED
PROJECT**

WHEREAS, on September 10, 2002, Council Adopted Resolution No. 2002-445, authorizing staff to develop a Neighborhood Restoration project, in southwest Modesto, titled the Roselawn Project, and

WHEREAS, the Roselawn Project has proven successful in addressing the blight and housing issues of the selected Roselawn area, and

WHEREAS, law enforcement and economic development issues were not addressed by the Roselawn Project, and

WHEREAS, the area of southwest Modesto is overly saturated with illegal activities, especially the sale and use of illegal drugs, and

WHEREAS, there is a need to further develop the area resident's workforce skills, and

WHEREAS, there is a U.S. Department of Justice grant program, titled Weed & Seed, that addresses the criminal, blight, and housing issues of a neighborhood via a grassroots effort that limits the impact of those negative elements on a community by improving the residents' quality of life by providing social services, workforce skill training, and a safer and cleaner neighborhood, and

WHEREAS, on February 27, 2003, the City Manager's Office, in coordination with the Modesto Police Department, Fire Department, and Parks, Recreation &

Neighborhoods Department, conducted the first Steering Committee meeting for the Weed & Seed project, and

WHEREAS, the Weed & Seed Steering Committee membership is made up of representatives from City Staff, Stanislaus County Staff, Modesto City Schools, area Social Service providers, religious leaders, local businesses, and area residents, and

WHEREAS, the Steering Committee has developed the necessary foundation to apply for the Weed & Seed grant, including the selection of a designated area which is the area south of H Street/Paradise Road, east of Carpenter Road, north of the Tuolumne River, and west of State Route 99, and

WHEREAS, the Weed & Seed grant requires that the sponsoring agency sign the Letter of Intent and the Grant Application, and

WHEREAS, the City of Modesto has operated as the sponsoring agency, and

WHEREAS, the City Manager will be signing the Letter of Intent and Grant Application on behalf of the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the development and implementation of the Weed & Seed Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Letter of Intent and Grant Application for Recognition 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 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-426**

A RESOLUTION ACCEPTING THE SALVATION ARMY, MODESTO CORPS, AS THE NON-PROFIT AGENCY TO IMPLEMENT A DAY FACILITY FOR HOMELESS INDIVIDUALS IN MODESTO, AND AUTHORIZING STAFF TO WORK WITH THE SALVATION ARMY TO DEVELOP A \$40,000 PAY FOR PERFORMANCE CONTRACT TO BEGIN OPERATION OF THE HOMELESS DAY FACILITY.

WHEREAS, in December 1999, business owners along Yosemite Boulevard and residents of La Loma neighborhood presented their concerns to the City Council about the high rate of anti-social behavior in public and residential areas in the La Loma neighborhood, and

WHEREAS, this issue was referred to the Parks, Recreation and Neighborhoods Department to develop a plan that would answer the concerns of the residents and business owners, and an interdepartmental action team was established to implement strategy reports, and

WHEREAS, in April 2001, the Human Services Committee (HSC) reviewed the first stage of the Implementation, and recommended that the City Council establish and appoint a Homeless Day Facility Site Development Committee, and

WHEREAS, on June 26, 2001, by Resolution No. 2001-313, the City Council approved the designation of the Stanislaus Housing and Support Services Collaborative (SHSSC) composed of public and private entities concerned with providing safe, affordable housing access and supportive services for the people who are homeless, or at risk for homelessness, as the planning and coordinating body for homeless issues in Stanislaus County, and

WHEREAS, the Collaborative's Homeless Day Facility Committee at its April 18, 2002, meeting, made a recommendation to the Collaborative to authorize the preparation and the distribution for a Request for Qualifications (RFQ), and

WHEREAS, on June 10, 2002, the Homeless Day Facility Committee reviewed the first draft of the RFQ, and the County of Stanislaus also confirmed their contribution of \$26,000 toward the Day Facility, and

WHEREAS, on September 5, 2002, the Safety and Communities Committee approved the recommendation to solicit Requests for Qualifications (RFQ) for the acquisition and implementation of a Day Facility for homeless individuals in Modesto, and,

WHEREAS, On October 1, 2002, by Resolution No. 2002-487, the City Council authorized staff to solicit Requests for Qualifications for the acquisition and implementation of a Day Facility for homeless individuals in Modesto, and

WHEREAS, On October 4, 2002, the RFQ was released and The Salvation Army was the only organization that submitted a proposal, and

WHEREAS, on December 20, 2002, the Homeless Day Center Review Committee, consisting of a member of the Stanislaus Housing and Support Services Collaborative, County staff, a member from the CH&CDC and City staff, met and reviewed the application submitted by The Salvation Army, and agreed that The Salvation Army is a well-qualified and capable organization to complete the Homeless Day Facility project, and

WHEREAS, staff has also reviewed The Salvation Army's fiscal and intake records to insure that The Salvation Army has the capacity to begin the Homeless Day Facility, and

WHEREAS, the first year the City of Modesto will fund up to \$40,000 through a pay for performance agreement which will include start up funds, with the remaining of the project for the first year to be funded in four phases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council accepts The Salvation Army, Modesto Corps, as the non-profit agency to implement a day facility for homeless individuals in Modesto.

BE IT FURTHER RESOLVED that City staff is hereby authorized to work with The Salvation Army to develop a \$40,000 pay for performance contract to begin operation of the Homeless Day Facility.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-427**

**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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classifications:

Maintenance Mechanic Pumps

The job specification for this classification is being amended as a result of updating the job specification in preparation of opening a recruitment. The specification for the classification of Maintenance Mechanic Pumps, 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.

Identification Technician II

The job specification for this classification is being amended as a result of a change in the experience requirement from 24 months to 18 months. The specification for the classification of Identification Technician I/II, 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 2. EFFECTIVE DATE. This resolution shall become effective on and after August 6, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MAINTENANCE MECHANIC – PUMPS

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 skilled and semiskilled tasks in the maintenance, repair and service of water, sewer and storm drain lift stations.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher-level supervisory staff.
May exercise technical supervision over lower level 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, maintain, troubleshoot, repair and service facilities, machinery and equipment including pumps, valves, motors, engines, compressors and computerized pneumatic and odor control systems.

Rebuild and overhaul pumps, pneumatic control systems, and ventilation blower units.

Read and interpret blueprints; provide input on design blueprints and recommend changes before finalization.

Operate and maintain a variety of equipment and tools in the performance of maintenance tasks.

Operate steam cleaner.

Fabricate parts and equipment including mounts, brackets and shields; operate welding and cutting equipment.

Essential Functions, Continued:

Perform preventive maintenance checks and servicing on equipment; develop maintenance schedules.

Inspect and calibrate gauges and meters; inspect and test air quality analyzers.

Spray pesticides, herbicides and insecticides as required.

Coordinate activities with other departments and divisions; recommend improvements to design, installation, and maintenance of lift stations.

Train maintenance staff in confined space entry procedures and lift station maintenance safety procedures.

Maintain inventory of supplies, parts and equipment used in pump station maintenance.

Respond to public concerns regarding water quality problems.

Collect state-mandated water and/or stormwater samples.

Perform plumbing, electrical, and carpentry duties as required.

Keep detailed maintenance records.

Additional duties when assigned to Water:

Operate portable sample pump.

Pack, lubricate, clean and paint pumping equipment and motors.

Flush distribution system to maintain water quality.

Initiate well and water distribution system disinfection procedures.

Install, maintain, and calibrate hypochlorinators.

Monitor and maintain Granular Activated Carbon (GAC) filters; assist in removal and replacement of carbon, backwashes as required.

Perform concrete repair including sawing, pouring, finishing and jack hammering.

Essential Functions, Continued:

Additional duties when assigned to Collections:

Maintain mechanical seals, lubricate, clean and paint pumping equipment and motors.

Practice the CAL-OSHA required confined space safety rules and regulations when working in confined spaces.

Monitor and maintain wastewater lift station odor control soil filter beds.

Monitor and maintain wastewater lift station chemical injection – odor/corrosion control systems.

Coordinate activities with the Environmental Services Division to inspect, monitor and assess hazardous material spills and illegal discharges into the wastewater and stormwater collection systems.

MARGINAL FUNCTION STATEMENTS:

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.

Safety procedures for confined space entry.

Basic plumbing and electrical principles.

Principles and practices of hydraulics related to pumps.

Practices and techniques of metal cutting and welding.

Preventive maintenance and inspection methods.

Appropriate safety practices and regulations.

Knowledge of continued:

Supervisory Control and Data Acquisition (SCADA) computerized pump control system.

Water and/or stormwater sampling methods.

Additional "Knowledge of" when assigned to Water Division:

Water disinfection procedures.

Safety procedures in handling chlorine.

Additional "Knowledge of" when assigned to Collections:

Confined Space Safety-Entry Procedures.

Safety procedures in handling of chemicals used in odor and corrosion control.

Ability to:

Independently perform a variety of skilled and complex repair, maintenance, servicing, and cleaning tasks involving pumps, motors, and computerized and pneumatic controls.

Read and interpret blueprints.

Perform medium-heavy manual labor, including but not limited to lifting up to 75 pounds, climbing, bending, and stooping.

Troubleshoot and diagnose malfunctions with pumping capacities, pneumatic controls, computerized controls and determine effective course of action for correcting them.

Work in confined work spaces.

Understand and carry out oral and written directions.

Establish and maintain effective 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:

One year of experience comparable to a Water Distribution System Operator or a Wastewater Collection System Operator.

Training:

Equivalent to high school diploma or G.E.D. supplemented by specialized training in the areas of mechanical maintenance and repair.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California Driver's license.

When assigned to Collections:

Possession of a C.W.E.A. Plant Maintenance-Grade I Certification is desirable.

Possession of a C.W.E.A. Mechanical Technologist-Grade II is desirable.

Possession of a C.W.E.A. Collections Systems Maintenance Technologist Grade I or II Certification is desirable.

When assigned to Water:

Possession of a Water Distribution Operator Grade III Certification issued by the State of California Department of Health Services is required within two years of appointment. Failure to obtain this certification may result in demotion to the previously held position (promoted employee) or release from employment (person hired from the outside into a position).

Possession of a Water Sampling Certificate is desirable.

When assigned to Water continued:

Possession of a Grade I, Water Treatment Plant Operator Certificate is desirable.

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 medium to heavy lifting up to 75 lbs., walking, standing, bending, stooping and crawling for prolonged periods of time; operating motorized equipment and vehicles.

CITY OF MODESTO
No. 7163
No. 7164

August 2003

**IDENTIFICATION TECHNICIAN I
IDENTIFICATION TECHNICIAN 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

Under general supervision, perform criminal identification duties of a technical nature including collection, identification, preservation, examination and processing of crime scene evidence; preparation of appropriate reports; assisting in criminal investigations; and serving as an expert witness in court proceedings.

DISTINGUISHING CHARACTERISTICS

These are non-sworn field positions in the Police Department.

IDENTIFICATION TECHNICIAN I: This is the entry-level class in the Identification Technician series. This class is distinguished from the Identification Technician II by the level of training in department policies, procedures and systems as they relate to this field. As experience is acquired, the employee performs with increasing independence. Positions assigned to the classification of Identification Technician II that become vacant would normally be filled at Identification Technician I.

IDENTIFICATION TECHNICIAN II - This is the full journey level class within the Identification Technician series. Positions in this class are flexibly staffed and are normally filled by advancement from the I level class after a minimum of 18 months and a proficiency standards rating. If filled from the outside, prior police related experience in performing technical phases of identification work including latent print identification is required. Employees within this class are distinguished from the Identification Technician I by the performance of specialized lead duties of the class, by the independence with which an incumbent is expected to operate and make decisions with established rules and procedures, and the ability to plan and organize the operation of the Police Department's Crime Lab.

SUPERVISION RECEIVED AND EXERCISED

Identification Technician I: Receives immediate supervision from sworn and non-sworn police supervisory staff.

Identification Technician II: Receives general supervision from sworn and non-sworn police supervisory staff. May provide direction to other non-sworn crime scene support staff.

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

Essential Functions:

Respond to major crime scenes and provide technical services such as collection and supervision of evidence such as searching for and lifting fingerprints by various methods, collecting body fluids and clothing and making plaster impressions; performs forensic laboratory analysis, CAL-ID/AFIS processing, WIN (Western Identification Network) processing, digital photo and video imaging enhancement, biological evidence examination, collection of gunshot residue, number restoration and identification of narcotics and drugs.

Testify in court as expert witness regarding collection and preservation of evidence and fingerprints.

Maintain laboratory equipment; maintains evidence-drying cabinets.

Attend autopsies to collect physical evidence that may assist in determining a cause of death.

Prepare and maintain appropriate records, logs, reports and diagrams of crime scenes and evidence collected.

Provide training to other law enforcement personnel in crime scene evidence and fingerprint collection, preparation and analysis and in preparing for court testimony in such matters.

Essential and Marginal Function Statements continued:

In Addition, for Identification Technician II:

Draft supply and equipment bids.

Draft work schedules for the unit.

Prepare monthly unit reports.

Perform equipment inventory and audits.

QUALIFICATIONS:

Knowledge of:

Basic principles of photography and darkroom procedures.

Practices, methods and techniques to perform forensic services in major crime scene processing and analysis.

Sequential processing methods used in recovery, collection and preservation of physical evidence.

Manual and automated finger/palm print identification systems.

OSHA requirements regarding chemical storage, usage, destruction and environmental hazards; and biological safety in the workplace.

Personal computers and relevant computer applications.

In Addition for Identification Technician II:

Those sections of the California Evidence Code pertaining to crimes.

Advanced principles of photography and darkroom procedures.

Advanced, state-of-the-art practices, methods and techniques to perform forensic services in major crime scene processing and analysis.

Ability to:

Operate forensic light sources.

Use fluorescent, digital and traditional photography.

Classify, search and file fingerprints cards utilizing the Henry System.

Follow oral and written instructions.

Train others in crime scene evidence collection, preparation and analysis and in preparing for court testimony in such matters.

Maintain cooperative and effective working relationships with those contacted in the course of work.

Exercise independent judgment with a minimum of supervision.

In Addition for Identification Technician II:

Organize and plan the operation of a Police crime lab.

Prepare court displays.

Perform equipment inventory and audits.

Prepare monthly unit and other reports.

EXPERIEND 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:

Identification Technician I:

Experience:

Two years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes.

Training:

Equivalent to the completion of the twelfth grade.

Completion of a minimum of 100 hours of specialized training in basic fingerprint identification and crime scene examination that is POST-recognized or the equivalent and at least one course covering basic English composition skills. These hours of training must have been taken with five (5) years of the final filing date.

License or Certificate

Possession of a valid California driver's license at the time of appointment.

Experience and Training Guidelines continued:

Identification Technician II:

Experience:

Four years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes.

OR

Eighteen months of relevant experience performing duties as an Identification Technician I.

Training:

Equivalent to an Associate of Arts Degree from an accredited college or university with coursework in criminology, forensic science, life sciences or a related field.

Completion of a minimum of 300 hours of specialized training relating to the detection, collection and preservation of crime scene evidence that is POST-recognized or the equivalent. Courses must include, but are not limited to, advanced training in fingerprint collection and identification, photography, collection of physical evidence at crime scenes and courtroom presentation of evidence.

License or Certificate:

Possession of a valid California driver's license at the time of appointment.

WORKING CONDITIONS

Environmental Conditions:

Work both inside or outside. May include exposure to variable, adverse weather and exposure to chemicals obtained as evidence.

Physical Conditions:

Essential and marginal functions may require lifting/carrying objects of up to 75 pounds of weight, maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles. May include exposure to physical confrontation and verbal abuse. Ability to safely handle firearms, controlled substances and biologically contaminated substances.

Work Assignment:

Wear a City-approved uniform and related equipment. Subject to irregular work shifts including working any shift in a 24-hour day, weekends and holidays; be available on call; maintain status as expert witness.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 428**

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE CRIME PREVENTION ACT 2000 AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS, FOR ONE MODESTO POLICE OFFICER TO WORK ON THE HIGH-RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO THE AGREEMENT

WHEREAS, on July 1, 2001, by Resolution Number 2001-351, the City Council approved an agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, on August 8, 2002, by Resolution Number 2003-377 the City Council approved an amendment to that agreement between the Stanislaus County Probation Department and the City of Modesto Police Department for a Modesto Police Officer to partner with a Stanislaus Probation Officer to monitor high-risk juvenile offenders and to enforce Juvenile Court warrants, and

WHEREAS, the County of Stanislaus Probation Department and the Modesto Police Department desire to continue to provide intensive supervision and monitoring to high-risk juvenile wards, enforce Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior for the purpose of reducing juvenile crime and gang involvement and increasing offender accountability, and

WHEREAS, the Modesto Police Department can provide an experienced and competent Police Officer for these purposes and the City wishes to enter into an amendment to the agreement with the Probation Department to provide such services, and

WHEREAS, the entire cost of one Modesto Police Officer, his or her benefits and

personal equipment, will be paid by the County of Stanislaus by a federal grant obtained for the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, said amendment extends the term of the agreement from July 1, 2003 to June 30, 2004, and provides total compensation of \$79,700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the second Amendment to the Crime Prevention 2000 Agreement between the City of Modesto and the Stanislaus County Probation Department for one Modesto Police Officer to work in the High-Risk Offender/Juvenile Warrant Enforcement Program for fiscal year 2003/04 is hereby approved.

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 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

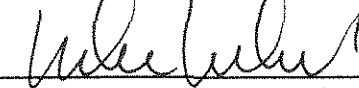
ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 429**

A RESOLUTION ACCEPTING A GRANT ENTITLED THE MODESTO ABC PROJECT FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR THE REDUCTION OF CRIME AND EXCESSIVE CALLS FOR SERVICE IN AND AROUND MODESTO'S DISORDERLY AND DISRUPTIVE ABC LICENSED ESTABLISHMENTS AND TO REDUCE SALES OF ALCOHOL TO MINORS AND AUTHORIZING THE CITY MANAGER 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

NOW, THEREFORE, BE IT RESOLVED that the City Manager or his authorized designee of the Council of the City of Modesto is authorized, on its behalf, to submit the attached proposal to ABC and is authorized to execute on behalf of the Council of the City of Modesto the attached contract, including any extensions or amendments thereof and any subsequent contract with the State in relation thereto.

IT IS AGREED that any liability arising out of the performance of this contract, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and ABC disclaim responsibility for any such liability.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

IT IS ALSO AGREED that this award is not subject to local hiring freezes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-430**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/2004 ANNUAL
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS**

WHEREAS, the Police Department acquired a grant award in the sum of \$84,000 from the State Department of Alcoholic Beverage Control for a project to reduce crime and excessive calls for service in and around Modesto'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 to initiate this grant project the 2003/2004 Annual Budget is hereby amended as indicated below:

	<u>Expense:</u>		
To:	0410-190-2992-0130	\$76,500	Officers' Overtime Hours
	0410-190-2992-0262	2,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	2,500	Required Conferences
	Total	\$84,000	
	<u>Revenue:</u>		
To:	0410-190-2992-3190	\$84,000	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 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-431**

A RESOLUTION AMENDING RESOLUTION NO. 97-537 ENTITLED "GRANTING APPROVAL TO THE MODESTO CERTIFIED FARMERS' MARKET TO CONDUCT A FARMERS' MARKET ON 16TH STREET, BETWEEN H AND I STREETS, IN THE CITY OF MODESTO, SUBJECT TO CERTAIN CONDITIONS AND RESCINDING RESOLUTION NO. 88-402."

WHEREAS, the Modesto City Council desires to amend Resolution No. 97-537 to require that space be set aside on 16th Street for First Amendment activities during the time it is used for the Farmers' Market,

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it does hereby approve the use by the Market of 16th Street, between H and I Streets, in the City of Modesto, for a farmers' market, subject to the following conditions and Revolution No. 97-539 which previously granted such approval is hereby amended to read as follows:

1. The Market may use the street area known as 16th Street, between H and I Streets, in the City of Modesto, each Thursday and Saturday until this resolution is rescinded, as hereinafter provided, between the hours of 5:00 a.m. and 2:00 p.m., to conduct a farmers' market to sell to the general public those category of products specifically defined in this resolution.
2. Products sold at said farmers' market shall be sold only between the hours of 6:00 a.m. and 1:00 p.m. on each Thursday and Saturday that the Market is held. The hours between 5:00 a.m. and 6:00 a.m. on each Thursday and Saturday that the Market is held may be used for the purpose of setting up the farmers' market area. The hours between 1:00 p.m. and 2:00 p.m. on each Thursday and Saturday that the Market is held may be used for the purpose of dismantling stands and cleaning the area within the farmers' market.

3. The street area known as 16th Street, between H and I Streets, shall be closed to all traffic except emergency vehicles on each Thursday and Saturday that the Market is held, between the hours of 5:00 a.m. and 2:00 p.m., subject to the approval of the Police Chief of the City of Modesto. In addition, the Police Chief, after consulting with "Market" representatives, shall designate not less than 100 square feet on said portion of 16th Street for the purpose of allowing interested persons to conduct activities protected by the First Amendment of the United States Constitution. The Market shall furnish its own street barricades for the closing of the area referred to herein above.
4. There are three (3) categories of products that may be sold to the public. Each product category shall only be sold in those areas as designated below. These product categories are as follows:
 - a. **Certified agricultural products** are defined as raw fruits, nuts, vegetables, honey and eggs in the shell, all in the unprocessed state, grown and sold by a certified farmer with proper documentation.
 - b. **Non-certified agricultural products** are defined as processed food sold by the farmer who grew them.
 - c. **Non-agricultural products** are defined as foods that are not certified or non-certified such as baked goods.
5. Certified agricultural products and/or non-certified agricultural products shall be sold within the Certified Farmers' Market Area, which is defined as that area on 16th Street beginning at a point 20 (twenty) feet south of the south property line of I Street to the north property line of H Street including the paved area and the sidewalk area within the public right of way of 16th Street.
6. Non-agricultural products shall be sold outside the Certified Farmers Market Area, which is defined as that area on 16th Street, beginning at the south property line of H Street to a point twenty (20) feet south of the south property line of I Street including the paved area and the sidewalk area within the public right of way of 16th Street. The designated area for the Certified Farmers' Market shall be delineated by signage which clearly defines the Certified Farmers' Market.

7. Each farmers' market may feature, for promotional purposes only, a **Merchant at the Market**. The merchant so featured shall not conduct any sales during those hours the Farmers' Market is in operation.
8. The featured **Merchant at the Market** may be either a merchant who is a member of the Downtown Improvement District and is a food merchant, or a merchant who is a member of the Downtown Improvement District and is a non-food merchant. Two merchants shall be featured at each farmers' market session one food and one non-food. A rotating schedule for the **Merchant at the Market** shall be approved and monitored by the Market. All merchants in some way will match the theme of the farmers market and/or season.
9. The Market shall publish a set of market rules and regulations which specify procedural criteria pertaining to:
 - (a) Admission of any producer to the market;
 - (b) Admission of any agricultural products to the market; and
 - (c) Removal of any producer from the market.

The Market has authority to establish specific rules and regulations for the:

- (a) Type and number of producers and certified producers admitted;
- (b) Type and number of certified and noncertifiable products admitted; and
- (c) Methods of selling certified and noncertifiable agricultural products.

The Market's rules and regulations shall contain a clause, which states that the Market shall implement and enforce all rules and regulations pertaining to the operation of a certified farmers' market in a fair and equitable manner.

A current copy of the certified farmers' market's rules and regulations shall be sent to the Department of Food and Agriculture, Fruit and Vegetable Quality Control Standardization and to the agricultural commissioner of Stanislaus County.

The Market's rules and regulations setting forth the criteria for acceptance of membership into the Market shall be in writing and shall be made available to anyone who requests a copy from the Modesto Certified Farmers' Market.

10. The Market shall obtain a Certified Farmer's Market Certificate in accordance with the provisions of Section 1392.2(a) of the Food and Agriculture Code of the State of California.
11. The Market, as sponsor of the market, shall obtain a business license in accordance with the provisions of Article 1 of Chapter 1 of Title VI of the Modesto Municipal Code. The business license so issued is applicable to all of the Market's certified agricultural and non-certified agricultural product vendors. The Market shall be exempt from the payment of business license tax as provided for in Section 6-1.106 of said Municipal Code.
12. Each non-agricultural product vendor must obtain a business license from the City of Modesto in accordance with the provisions of Article 1 of Chapter 1 of Title VI of the Modesto Municipal Code.
13. The Market shall remove from 16th Street, between H and I Streets, in the City of Modesto, and all areas adjacent thereto, all trash and debris generated as a result of the farmers' market. The removal of said trash and debris shall be completed by 2:00 p.m. on each Thursday and Saturday that the farmers' market is conducted.
14. The Market shall indemnify, defend and hold the City of Modesto, its officers, agents, employees, and volunteers free and harmless from and against all liabilities, judgments, claims, demands, actions, losses, damages, or costs, including litigation costs and attorney fees from every cause arising directly or indirectly out of, or in any way related to, the Market's use of the area known as 16th Street, between H and I Streets, in the City of Modesto, and all areas adjacent thereto. Upon demand, the Market shall at its own expense defend the City of Modesto, its officers, agents, employees, and volunteers against all such liabilities, claims, judgments, demands, actions, losses, damages or costs.
15. The Market shall furnish to the City Clerk a current and valid certificate of insurance evidencing public liability and property damage insurance as shall protect the Market and its agents and employees from claims for damages for bodily injury and property damage which may arise out of the Market's use of the area known as

16th Street, between H and I Streets, in the City of Modesto, and the areas adjacent thereto as a farmers' market.

The amount of public liability insurance shall be as follows: Public liability insurance with combined single limits of liability, including products liability coverage, in the amount of one million (\$1,000,000.00) dollars.

The Market's liability policy and the valid certificate of insurance which is to be furnished to the City Clerk shall contain contractual liability provisions stating that the policy is extended to cover the liability assumed by the Market under the terms of this resolution. The liability policy and the certificate of insurance furnished to City shall not permit cancellation of said insurance unless ten (10) days prior written notice is furnished to the City Clerk.

16. One portable identification sign not to exceed 25 square feet in area nor 6 feet in height may be placed by the Market at each entrance to the farmers' market during actual market operation but only if permitted by the provisions of Article 21 of Chapter 2 of Title X of the Modesto Municipal Code.
17. Markings may be placed by the Market on the pavement and/or curbs of 16th Street, between H and I Streets, for the purpose of identifying selling areas. Such markings shall be located and installed in accordance with a marking plan prepared by the Market and approved by the City's Public Works and Transportation Director. Such markings shall be unobstructive and shall in no way obscure or interfere with curb and/or pavement markings placed by the City of Modesto.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect until such time as it is rescinded by the City Council.

BE IT FURTHER RESOLVED that the City Clerk shall furnish the Modesto Certified Farmers' Market with a copy of this resolution. The Market shall file a written acceptance of this resolution and the conditions set forth herein with the City Clerk, and no right shall be conferred hereby until said acceptance is filed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
Mayor Sabatino

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-432**

A RESOLUTION APPROVING A REVISED TRAFFIC-CALMING PLAN FOR THE ENCINA/LA LOMA AREA NEIGHBORHOOD AND AUTHORIZING STAFF TO PROCEED WITH THE PLANS FOR THE IMPLEMENTATION OF THIS PROJECT AND RESCINDING RESOLUTION NO. 2002-598.

WHEREAS, on April 29, 2002, the City of Modesto Planning Division received a subdivision map application for the vacant property at the northeast corner of Conejo and Julian Avenues, and

WHEREAS, as a result of this proposed subdivision, Traffic Engineering staff requested the connection of Encina Avenue to the east of Conejo Avenue along the MID easement, and

WHEREAS, due to the controversy surrounding this issue, neighborhood meetings were held, and

WHEREAS, the first neighborhood meeting was held on June 26, 2002, at the La Loma Junior High School to discuss the proposed Mira Loma subdivision, and at this meeting, several residents expressed concern about traffic speeding throughout the neighborhood, and

WHEREAS, several neighborhood meetings were held to gain input as part of the planning process for the development of the Traffic-Calming Plan (TCP), and

WHEREAS, in response, Traffic Engineering staff has produced a TCP for the Encina/La Loma area neighborhood which includes the area bounded by Miller Avenue to the south, east Edgebrook Drive to the north, El Vista Avenue to the east, and La Loma Avenue as the west boundary. Existing traffic volumes and reported collisions on all street segments and intersections in this boundary area were considered in developing the Encina/La Loma Area Neighborhood TCP, and

WHEREAS, for the October 16, 2002, meeting, a notice was sent to approximately 1,750 Encina/La Loma area residents south of Edgebrook Drive, north of Yosemite, west of El Vista Avenue, and east of La Loma Avenue, and

WHEREAS, on November 14, 2002, the Economic Development Committee recommended approval of the proposed TCP and authorized staff to seek approval of the TCP from the City Council, and

WHEREAS, following a public hearing on November 18, 2002, regarding the proposed TCP, the Planning Commission recommended adoption of the TCP, and

WHEREAS, by Resolution No. 2002-598, the City Council reviewed and approved the draft TCP on November 26, 2002, and

WHEREAS, at said meeting, the City Council rejected the subdivision plan and asked for the connection of Encina Avenue from Phoenix Avenue to west of San Juan Drive, and

WHEREAS, on January 29, 2003, at the request of citizens involved, City staff attended a meeting held by concerned residents regarding the new proposed Mira Loma Subdivision Plan and neighborhood traffic issues related to development, and

WHEREAS, the purpose of the meeting was to view the new map submitted by Ridge Sutter which included the direct connection between east and west Encina Avenue and to recommend changes to the TCP based on the new proposal, prior to the item being presented to the Planning Commission on April 7, 2003, and

WHEREAS, after a public hearing held on April 7, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the new subdivision application was approved by the City Planning Commission Resolution No. 2003-19, and

WHEREAS, the Planning Commission's decision was appealed, and

WHEREAS, on May 13, 2003, the City Council denied the appeal and effectively endorsed the Mira Loma subdivision as approved by the City Planning Commission, and

WHEREAS, in reaction to this new map, the TCP that was previously adopted by the City Council on November 26, 2002, requires revision to accommodate Encina Avenue as a through street, and

WHEREAS, on June 18, 2003, staff met with residents to discuss the Revised Encina Avenue TCP. Approximately 15 citizens attended the meeting and suggested the following changes to the Revised Encina Avenue TCP: 1) Remove the proposed roundabout at the La Loma Avenue and Buena Vista intersection in favor of a roundabout at the intersection of North Conejo Avenue and Encina Avenue, 2) Add two speed

cushions on Encina Avenue, one west of Covena Avenue and one between Wilson Avenue and Santa Ana Avenue. Add two speed cushions on Edgebrook Drive, per the previous TCP, and 3) Install fog lines on Encina Avenue to visually narrow the road in order to slow traffic, and

WHEREAS, staff agrees with the residents' proposed modifications and has incorporated these changes in the proposed Encina Avenue TCP and recommends adoption of the Revised Encina Avenue TCP by the Council, and

WHEREAS, on July 7, 2003, the Economic Development Committee recommended approval of the proposed Revised Encina Avenue TCP and authorized staff to seek approval of the TCP from the City Council, and

WHEREAS, staff believes this TCP best fits the specific traffic needs and character of the Encina/La Loma area neighborhood, and

WHEREAS, on August 6, 2003, the City Council considered staff's recommendation for a Revised TCP for the Encina/La Loma area neighborhoods and request for authority for City staff to proceed with the implementation of the Revised TCP and the rescission of Resolution No. 2002-598,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Revised Encina/La Loma Area Neighborhood TCP, a copy of which is attached hereto as **Exhibit "A"**.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to proceed with plans for implementation and installation of said Revised Encina/La Loma Area Neighborhood TCP.

BE IT FURTHER RESOLVED that effective July 22, 2003, Resolution No. 2002-598, adopted on November 26, 2002, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2003, by Councilmember Frohman , who moved its adoption, which motion being duly seconded by Councilmember Fisher , was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

REVISED
ENCINA/LA LOMA NEIGHBORHOOD
TRAFFIC-CALMING PLAN REPORT



July 22, 2003

Previous Version Adopted By the City Council on November 14, 2002

Engineering & Transportation Department

City of Modesto

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INTRODUCTION

On April 29, 2002, the City of Modesto Planning Division received a subdivision map application for the Mira Loma Subdivision project (vacant property at the northeast corner of Conejo and Julian Avenues). As a result of this proposed subdivision, Traffic Engineering staff requested the connection of Encina Avenue to the east of Conejo along the MID easement. Currently, Encina Avenue terminates at Conejo Avenue immediately northeast of La Loma Junior High School.

Due to the controversy surrounding this issue, neighborhood meetings were held. Neighborhood residents involved believe that there is a speeding problem in the La Loma area that needs to be addressed.

The purpose of this report is to address the traffic-calming needs of the Encina/La Loma area.

NEIGHBORHOOD CONDITIONS

The proposed Encina/La Loma Neighborhood Traffic-Calming Plan (TCP) includes the area bounded by Miller Avenue to the south, east Edgebrook and Encina to the north, El Vista to the east, and La Loma Avenue as the west boundary (as shown in Figure 1 below).

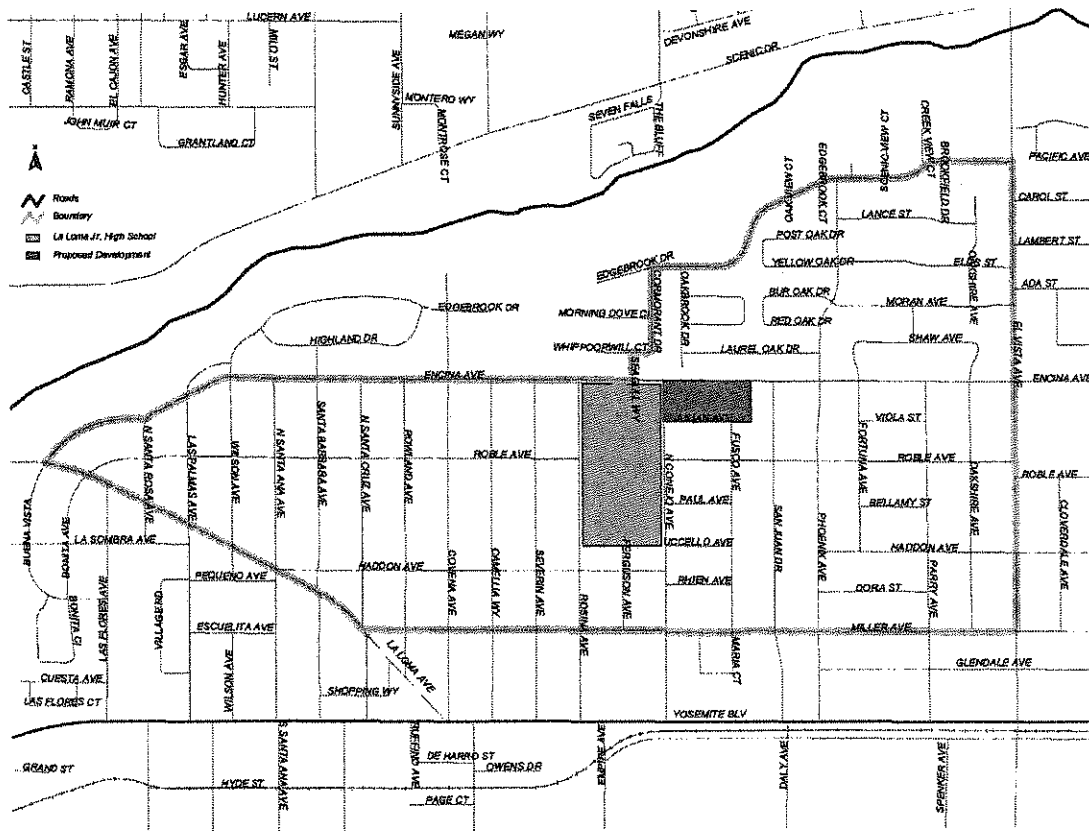


Figure 1: Map showing boundaries of the Encina/La Loma Neighborhood.

The Encina/La Loma Neighborhood primarily consists of single-family residential and some multi-family residential. Construction of certain streets within the La Loma area neighborhoods occurred prior to its annexation within the City. While some of the development occurred after City annexation, the older standards of that day are rendered obsolete and have been updated. Therefore, the streets and sidewalks within this neighborhood do not meet the current City Standards. Because of this, many streets are narrower and lack sidewalks, thus forcing children to walk in the roadway. Figure-2 below shows students walking south on Rosina. Behind the children in this picture is a car traveling north.

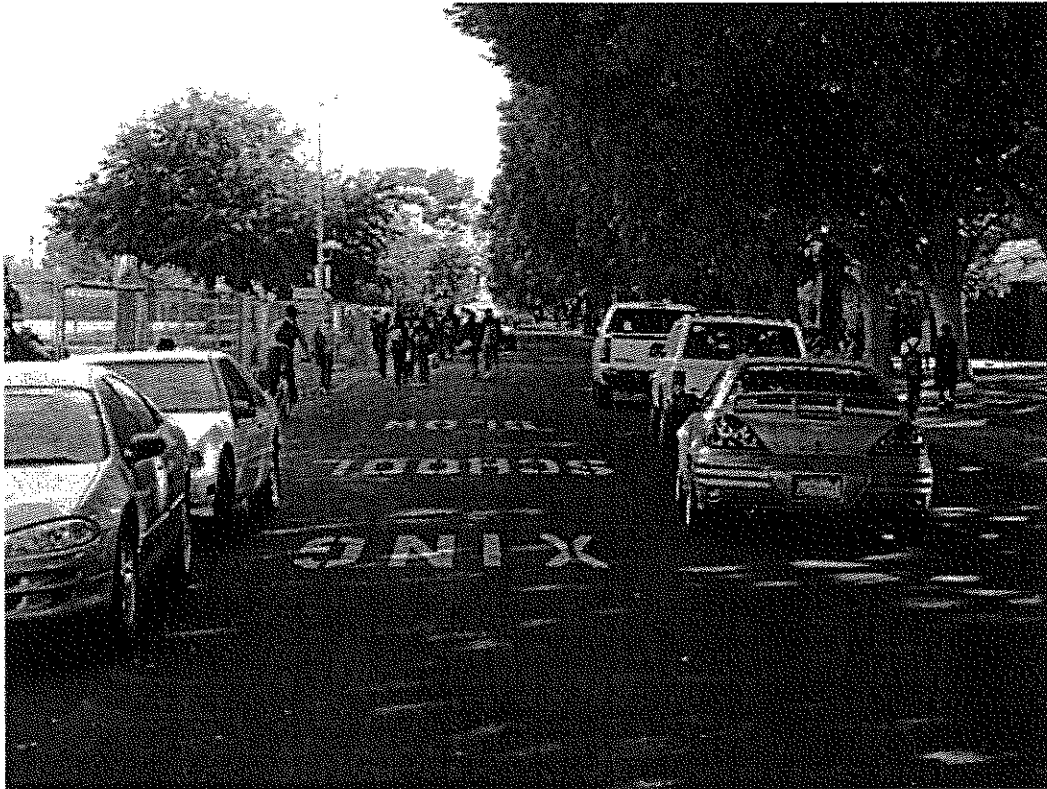


Figure 2: Photo taken at La Loma Jr. High. Looking south on Rosina.

Schools in the Neighborhood

There are two schools in the Encina/La Loma Neighborhood, La Loma Junior High School, and Wilson Elementary School.

La Loma Junior High School fronts Encina Avenue between Rosina and Conejo and was built around 50 years ago. Approximately 1,050 students attend this school, between the ages of 12 and 14 (grades 7-8). Students attending La Loma Junior High come from an area bordered by McHenry, Briggsmore, Riverside/Lakewood, and south to the river. It draws students from the following elementary schools:

- Orville Wright Elementary School
- Wilson Elementary School
- El Vista Elementary School
- Lakewood Elementary School
- Sonoma Elementary School
- Rose Avenue Elementary School
- John Muir Elementary School

According to the administration of La Loma J Junior High, busing is available for students who live more than 1½ miles from school. Currently, there are 6 buses each day that shuttle students to and from the junior high school. Busing is unavailable for students south of La Loma Junior High School, therefore, most students from this area must either walk, ride bicycles, or are dropped off by car. The school's administration explained that drop-off and pick-up congestion is a serious problem during the morning and afternoon peak periods, and it frequently results in gridlock.

Wilson Elementary School was built in 1972. It is located south of La Loma and west of Santa Ana. Currently there is an approximate enrollment of 396 students comprised of 50 preschool students (ages 3 ½-4) and 346 students in grades K-6. Students attending Wilson Elementary School come from an irregularly bordered area of Edgebrook to the north, South Santa Cruz to the south, the downtown area (9th Street) to the west, and Rosina to the east.

Currently, there is only one school bus serving Wilson Elementary School each day. Due to the young age of the students attending this school, most children are dropped off and picked up by their parents. Drop-off and pick-up congestion is a concern for the school administration, particularly with parents stopping in the middle of the roadway or calling their children across Pequeno and Santa Ana Avenues.

TRAFFIC CONDITIONS

To better understand the traffic conditions in the Encina/La Loma area, staff conducted an analysis based on neighborhood existing and projected traffic volumes, traffic patterns, traffic speeds, and traffic collision data. Traffic Engineering staff developed the proposed TCP for the Encina/La Loma area neighborhoods using this data. Following are our findings of the traffic conditions:

Traffic Volumes

Using the City Traffic Model, Traffic staff projected the future traffic based on two options, 1) Encina connected, and 2) Encina left unconnected. Staff used these projections as a basis for the creation of the proposed TCP. The existing and projected volumes are shown in Exhibits 1-3. From the exhibits, traffic on streets such as Roble and Conejo is going to increase. In Exhibit 2, traffic is projected with Encina connected. With the connection, Encina will see an increase of traffic from 22% to 192% in certain sections. Without Encina connected, Roble will increase as much as 370% in one section and 8% in another, Haddon, Miller, and La Loma will all see increases. Traffic Patterns.

Traffic Patterns

Currently, Encina Avenue terminates at Conejo Avenue immediately northeast of La Loma Junior High School. There is a missing segment of roadway between this point and Phoenix Avenue to the east.

Because of this gap, traffic coming from the area must zigzag through numerous residential streets that were not designed for this function. This traffic flow pattern has been in operation for many years.

Residents who live east of El Vista use a circuitous route to drop children off at schools, or to get to and from work, shopping, and entertainment (movies) in the downtown area.

Traffic Speeds and Accident Analysis

The community meetings made it apparent that speeding was a major concern for the neighborhood. According to the Modesto Police Department, since January 1, 2002 to November 1, 2002, there have been 80 speeding citations issued on Encina Avenue alone.

Staff compared various intersections in the Encina/La Loma Neighborhood and reviewed their three-year collision data. Currently, the Edgebrook/El Vista intersection is controlled with stop signs on both sides of Edgebrook, stopping on El Vista. Due to the close proximity of the Encina/El Vista intersection with the Edgebrook/El Vista intersection, Edgebrook is not planned for a signal. The accident analysis at Edgebrook shows that the collision rate at Edgebrook and El Vista is above average. Primary movements involved in the collision patterns are the left-turn movements in and out of Edgebrook.

At Encina and El Vista, similar types of collisions also exist. The proposed TCP includes the addition of a left-turn phase from El Vista onto Encina. With the addition of a left-turn phase on El Vista at Encina, the safety of the left turning traffic movement through this intersection will improve. Exhibits 4 & 5 show the collision diagrams for the El Vista/Encina and El Vista/Edgebrook intersections.

COMMUNITY INPUT

The neighbors requested staff to evaluate potential traffic-calming measures for various streets in their neighborhood. Staff has successfully worked with neighborhoods in the past to jointly create viable traffic-calming measures rather than making a unilateral staff proposal. City staff worked with the Encina/La Loma area neighborhoods in evaluating various traffic-calming measures tailored for specific intersections and street sections, and jointly developed a TCP.

As part of the planning process for the development of the TCP, City staff met several times with the Encina/La Loma area neighborhood residents to gain input. Following are the dates the meetings occurred.

- The first neighborhood meeting was held on June 26, 2002 at the La Loma Junior High School. There were over 200 residents in attendance.
- Staff's recommendation at the August 26, 2002 Planning Commission meeting was to connect Encina through. At that meeting, the Planning Commission saw a need for alternative plans and denied the application.

Subsequent to the Planning Commission Meeting, staff met with the Encina/La Loma Neighborhoods.

- On September 16, 2002 at their request, staff met with a group of Encina representatives. At this meeting, the group expressed concerns that traffic speeding was already prevalent throughout the neighborhood. They felt that speeding problems would be exacerbated with any connection of Encina Avenue. The residents requested a comprehensive traffic-calming plan for the neighborhood.
- On September 30, 2002, staff met with the same group of neighborhood representatives, as well as the residents of Julian Avenue. We specifically added Julian Avenue residents

because we knew there would be impacts on Julian Avenue based upon the new application by the developer.

- For the October 16, 2002, meeting a notice was sent to approximately 1,750 Encina/La Loma area residents south of Edgebrook, north of Yosemite, west of El Vista, and east of La Loma. Fifty people attended this meeting.

Following are the concerns and comments expressed by residents at the neighborhood meetings:

- Traffic speeds
- Quality of life for existing homeowners – this is a special, unique neighborhood
- Safety of school children (proximity to La Loma Junior High School), pedestrians, and bicyclists
- Noise generated by additional traffic
- La Loma Bridge is already a bottleneck. Connecting Encina will increase traffic in the area, creating a bigger bottleneck.
- Scenic and Yosemite are four lane roads leading into/out of the downtown area. Opening Encina would create a short cut for motorists.
- Opening Encina would create a direct route through the area and relieve traffic on the residential side streets (Seagull, Cormorant, Edgebrook, and Roble).
- Open to better serve the school
- Opening Encina will help divert traffic from Miller Avenue
- Opening Encina is more equitable solution for area residents
- More direct access for Police Department and Fire Department
- Will eliminate zigzag traffic through the area residential streets – The traffic is already here.

On November 26, 2002, City Council rejected the subdivision plan and asked that Encina be connected. The developer then submitted a new plan, which had Encina directly connected. Prior to the Planning Commission meeting where this new plan was to be considered, the neighborhood representatives invited staff to meet with them and discuss the new plan and its impact on traffic circulation.

- On January 29, 2003, at the request of the citizens involved, City staff attended a meeting held by concerned residents regarding the new proposed Mira Loma Subdivision plan and neighborhood traffic issues related to the development. Staff met with them and noted the following concerns:
 - Miller Avenue – Do not install speed cushions
 - Conejo & Miller – Do not install all-way stop.
 - Roble Avenue – Install speed cushions as proposed.
 - Roundabout at La Loma & Buena Vista – Phasing would be delayed in favor of roundabout in the intersection of N. Conejo and Encina.
 - Encina & Conejo – Eliminate lighted crosswalks and explore roundabout.
 - Channelize traffic on Encina between Seagull Way and N. Conejo so it would restrict left-turn movements out of the school's parking lot. This would channel them through

the Encina/Conejo roundabout, allowing them the opportunity to travel west. This would also improve traffic flow around the school during drop-off and pick-up times.

- Edgebrook – The TCP proposed two speed cushions on Edgebrook. Several of the Edgebrook residents requested that the speed cushion installations be put on hold until after the subdivision is completed. The residents felt the new proposal will remove a considerable amount of traffic off of Edgebrook; therefore, they do not feel the speed cushions are necessary.
- City's Streets Division or road crew will be contacted to look at doing grading work on the City-owned lot on Encina directly north of the school due to the flooding that sometimes blocks the westbound lane on Encina. Also look at installing curb, gutter, and sidewalk on this piece of City-owned property.

The City Planning Commission approved a new Mira Loma Subdivision map on April 7, 2003, that shows Encina Avenue as a through street. The Planning Commission's decision was appealed. On May 13, 2003, the City Council denied the appeal and effectively endorsed the Mira Loma Subdivision as approved by the Planning Commission.

In reaction to this new map, the TCP that was previously adopted by the City Council on November 26, 2002, needs to be revised to accommodate Encina Avenue as a through street.

- On June 18, 2003, staff met with residents to discuss the modified Encina Avenue TCP. Approximately 15 citizens attended the meeting. The residents suggested the following changes to the modified Encina Avenue TCP:
 1. Remove the proposed roundabout at the La Loma Avenue and Buena Vista Avenue intersection.
 2. Add two speed cushions on Encina Avenue, one west of Covena Avenue and one between Wilson Avenue and Santa Ana Avenue.
 3. Add two speed cushions on Edgebrook Drive, per the previous TCP.
 4. Install fog lines on Encina Avenue to visually narrow the road in order to slow traffic.

Based on these new comments, staff revised the TCP, which was previously submitted and developed this new plan, which addresses most of the concerns and comments raised at the neighborhood meeting.

TRAFFIC-CALMING PLAN

The proposed TCP consists of recommendations to install speed cushions, one roundabout, fog line striping, centerline striping, fluorescent green pedestrian crossing signs, and traffic signal modifications. These devices are recommended to best fit the specific traffic needs and suitability of the locations. For example, a roundabout would only fit at certain locations given the need for extra right-of-way, and a speed cushion would serve at its best if placed a certain distance away from another traffic speed control feature.

This proposed TCP has evolved through seven separate discussions with various representatives from the neighborhood. The last discussion was on June 18, 2003.

The estimated cost of the revised TCP is \$300,000. Staff is hoping to find CMAQ funds. This is discussed in the "Implementation Strategy Cost Estimates" section of this report. Exhibit 5 shows the revised TCP features.

The main features of this plan are as follows:

- Speed Cushions
- Striping Upgrades
- Signing Upgrades
- Roundabout
- Traffic Signal Modifications

Speed Cushions

A speed cushion is simply a derivative of the speed hump currently in use within the city of Modesto. The length and height of a cushion are similar to that of the hump but differ in width. Speed cushions are typically narrower than a hump and are designed so emergency vehicles can straddle them at high speeds with little discomfort. An example of a speed cushion can be found in Figure 3.

Modesto hosted a speed cushion demonstration by a vendor. City Fire and Police staff was able to "test" a speed cushion with their emergency vehicles. The feedback from Fire and Police Departments regarding these speed cushions was favorable.

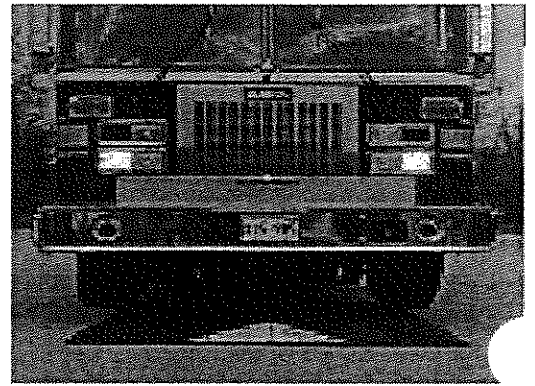


Figure 3: Picture showing fire truck straddling a speed cushion

The proposed TCP includes the use of speed cushions at 6 locations (as shown on Exhibit 6 in red). The locations are as follows:

- 1 - Roble Avenue, mid-block between Rowland Avenue and Covena Avenue
- 2 - Encina Avenue, mid-block between Covena Avenue and Camellia Way
- 3 - Encina Avenue, west of Covena
- 4 - Encina Avenue, mid-block between Wilson Avenue and Santa Ana Avenue
- 5 & 6 - Edgebrook Avenue, two locations between Oakbrook Drive and Oak View Court

Striping Upgrades

Striping upgrades are planned on Encina to define the roadway and control speeds. The picture shown in figure-4 shows a similar Modesto street (Wylie Drive), where the combination of a new centerline and fog lines helps to calm traffic. By striping the centerline and fog line, a perception is created that the effective roadway width is narrower. The motorists feel confined and tend to lower their speeds. Thus helping to achieve the desired effect, i.e. slower travel speed and hence "traffic calming."



Figure 4: Picture showing potential striping upgrades (Centerline and fog line striping)

Additional upgrades include channelize traffic on Encina between Seagull Way and N. Conejo so it would restrict left-turn movements out of the school's parking lot. This would channel them through the Encina/Conejo roundabout, allowing them the opportunity to travel west. This would also improve traffic flow around the school during drop-off and pick-up times.

Signing Upgrades

Figure-5 shows a fluorescent green pedestrian sign. The proposed TCP includes replacement of the existing pedestrian signs in the Encina/La Loma Neighborhood with this highly reflective fluorescent green pedestrian signs. These new signs have a much higher reflectivity and target values. They are visible from further distances, and during darker periods, i.e. early mornings and foggy conditions. The change in sign color helps increase driver awareness of potential pedestrians. The proposed TCP will replace existing pedestrian signs with fluorescent pedestrian signs throughout the neighborhood.



Figure 5: Picture of fluorescent pedestrian sign.

Roundabouts

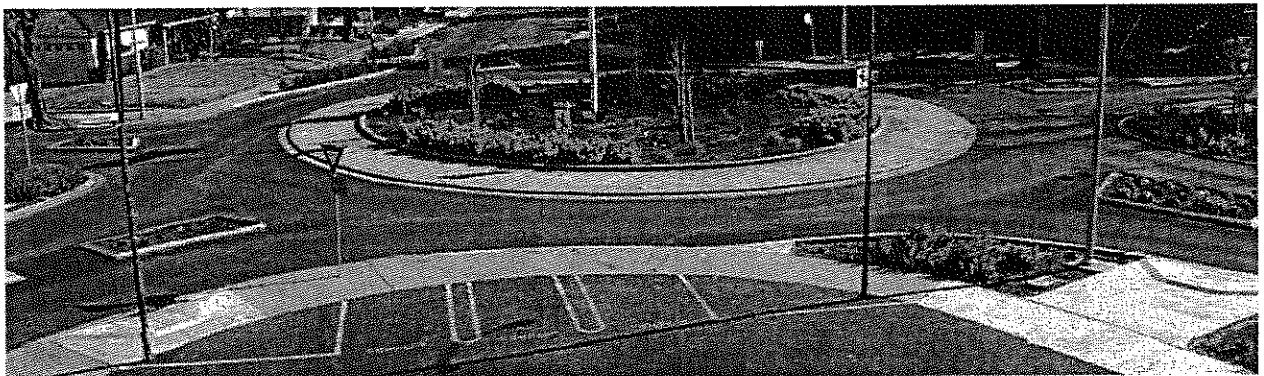


Figure 6: Picture of existing La Loma roundabout.

An existing roundabout is in place and functioning effectively at the La Loma, G, and James Streets intersection. At the request of the residents of the Encina/La Loma Neighborhood, staff looked into the possibility of installing a roundabout at the intersection of Encina/Conejo. It is staff's opinion that this is an excellent location for a roundabout due to the intersection width. The Encina/Conejo roundabout would serve as the gateway to the subdivision and the La Loma Junior High School and has adequate right of way for a City standard roundabout.

Signal Modifications

The proposed TCP includes the modification of the traffic signal at El Vista and Encina. This modification includes the addition of a left-turn phase for the north/south traffic on El Vista. This additional phase will allow vehicles to make a protected left turn during every signal cycle. It is anticipated that the signal modification will have a positive impact on the collision rate at El Vista and Edgebrook, as motorists will choose to make turns at the signalized intersection of El Vista at Encina.

IMPLEMENTATION STRATEGY COST ESTIMATES:

The proposed TCP is anticipated to cost approximately \$300,000 (see Exhibit 7). Due to the high cost involved, staff envisioned a phased implementation of this project. Staff has found some savings in various CMAQ projects that could be utilized for the Encina TCP. Staff has requested StanCOG to re-appropriate these funds. StanCOG's initial response is very positive. Therefore, staff is anticipating the CMAQ funds for this project and will program a single-construction contract and phase for the implementation of the TCP.

The construction phasing excludes the signal modification at El Vista and Encina Avenues. The signal modifications are taking place as part of a CMAQ project, which will cost \$80,000. We are currently in the design process for this portion of the TCP.

CONCLUSION

Staff believes the proposed TCP best fits the specific traffic needs and character of the Encina/La-Loma Neighborhood. It represents input from several neighborhood meetings, and takes into consideration their concern for traffic speeds, accident history, current and projected traffic volumes. It uses various accepted methods of traffic calming to accomplish our mutual objective of increased safety throughout the community.

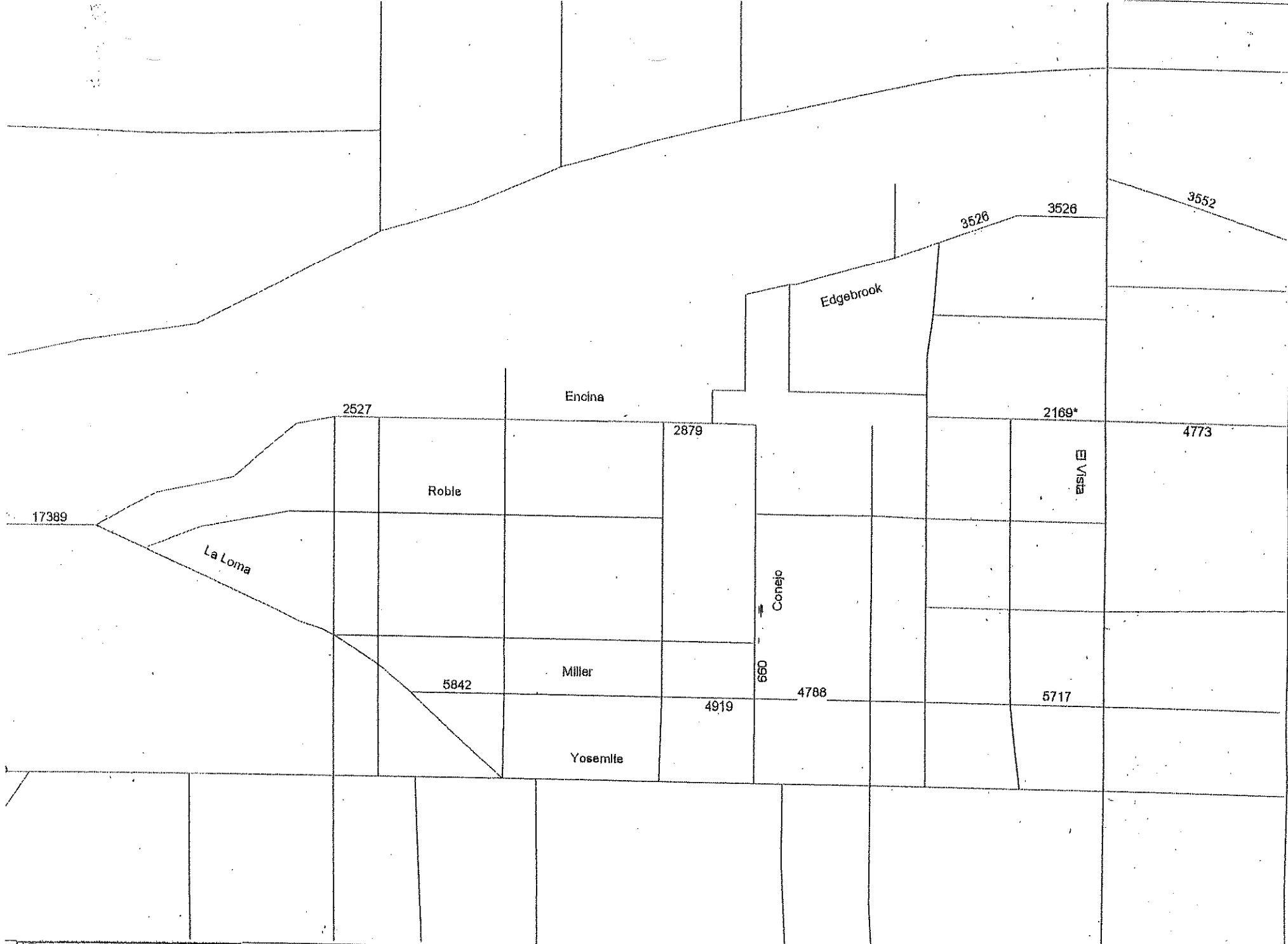


EXHIBIT 1

*Based on 1995 Counts

2001-2002 Traffic Counts

Viper Software by Citilabs

Licensed to City of Modesto

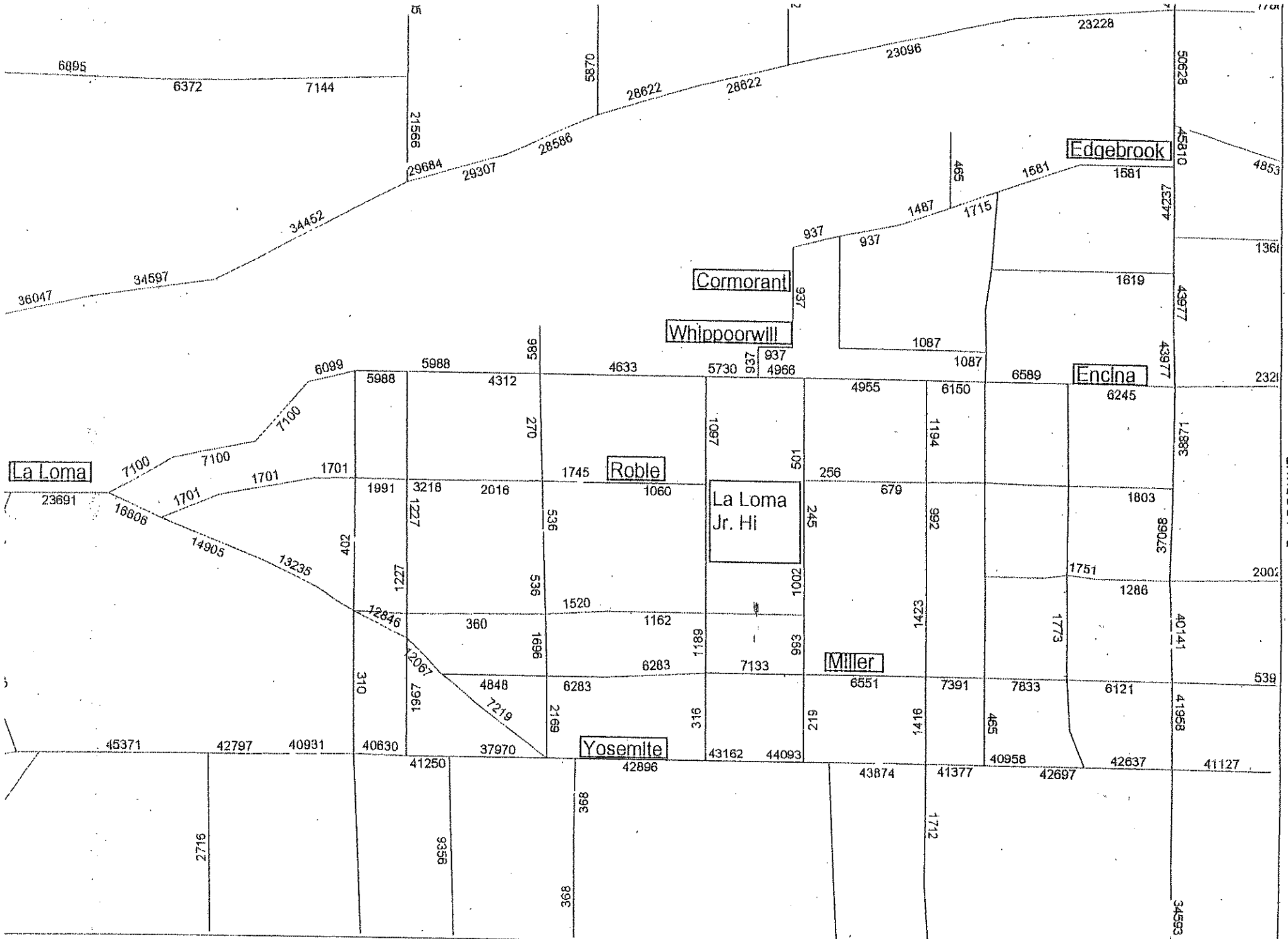


EXHIBIT 2

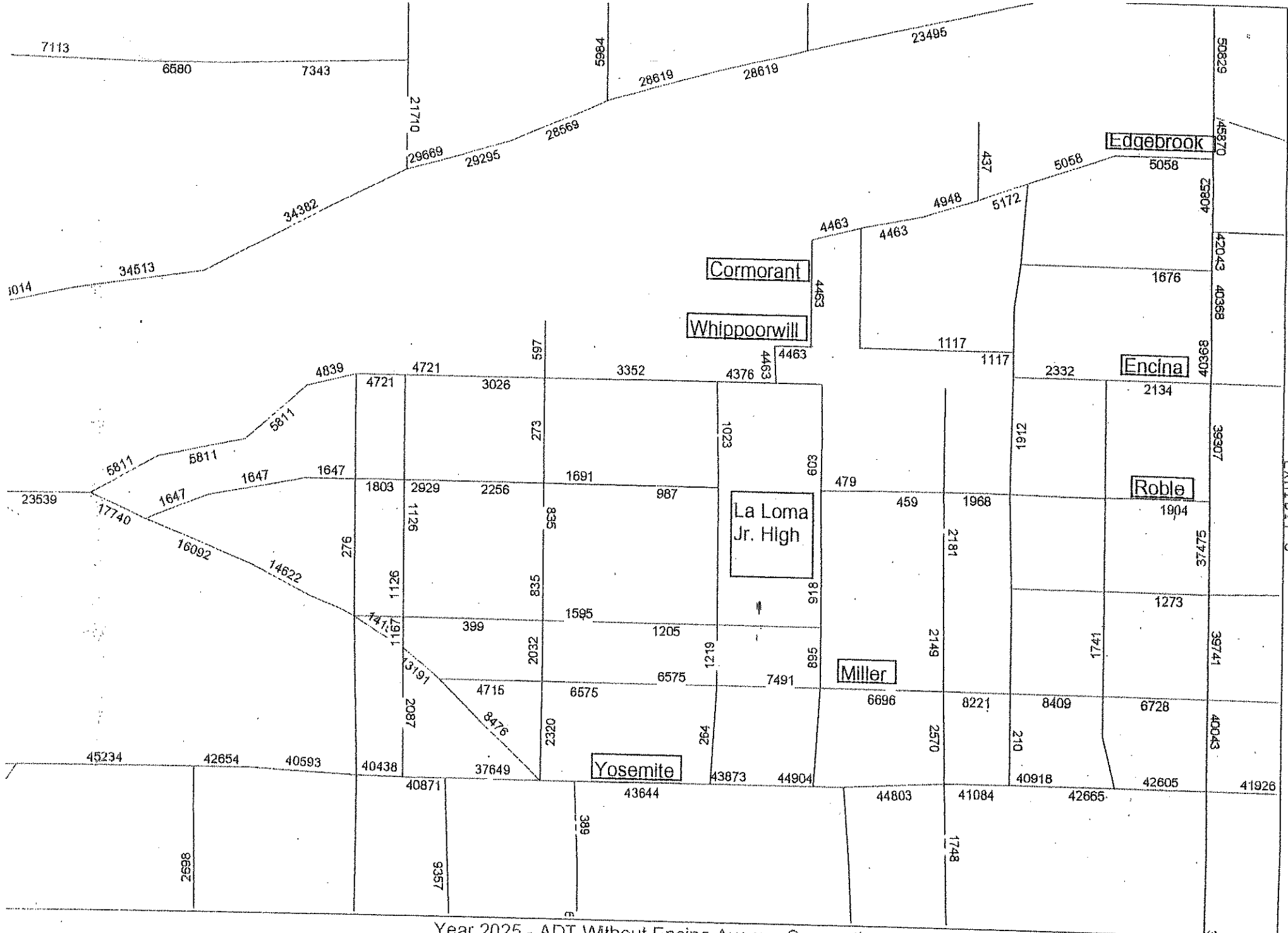


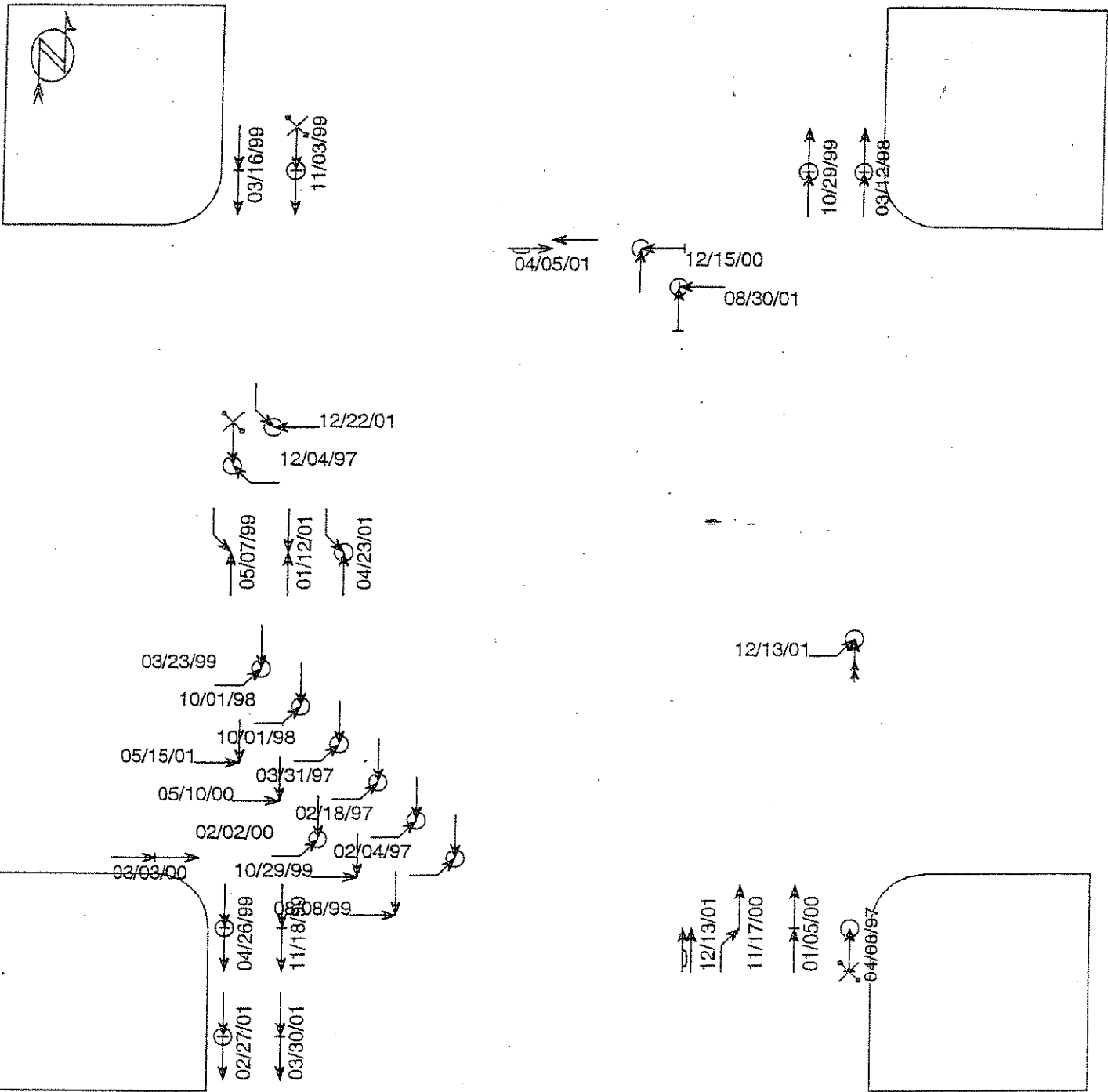
EXHIBIT 3

Year 2025 - ADT Without Encina Avenue Connection

Edgebrook Dr & El Vista Ave

33 Accidents

01/01/95 - 12/27/01



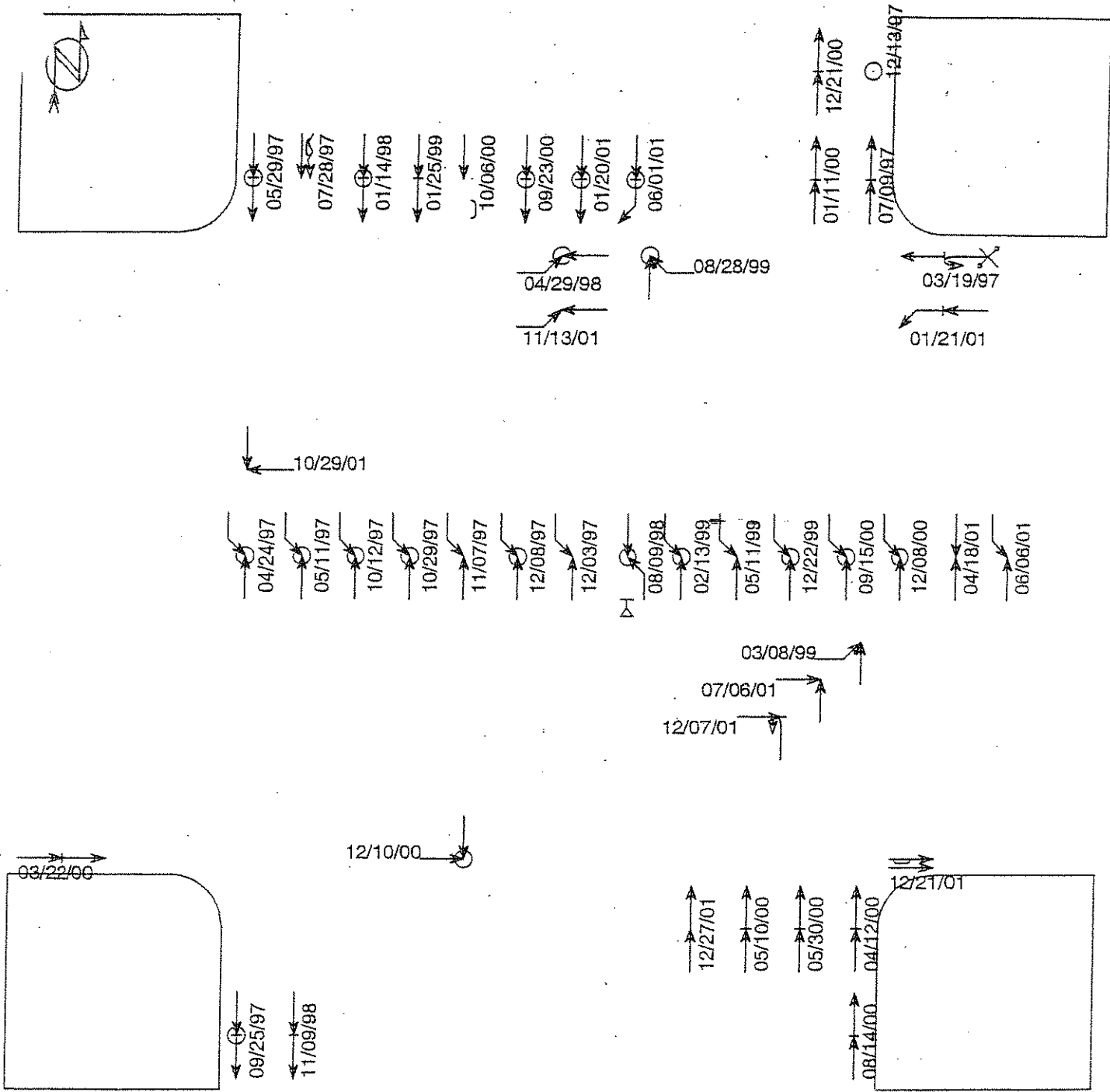
(clear filter), (0) accidents with insufficient data for display

- | | | | |
|--------------|------------------|--------------|----------------|
| ← Straight | ▨ Parked | × Pedestrian | Fixed objects: |
| ←\| Stopped | ⚡ Erratic | ⊗ Bicycle | □ General |
| ← Unknown | ⚡ Out of control | ○ Injury | ▣ Signal |
| ↔ Backing | ↘ Right turn | ⊙ Fatality | ▣ Tree |
| ↔ Overtaking | ↙ Left turn | 🌙 Nighttime | ◁ 3rd vehicle |
| ↔ Sideswipe | ↺ U-turn | 🚔 DUI | * Extra data |
| | | | ▣ Pole |
| | | | ▣ Curb |
| | | | ⊗ Animal |

El Vista Ave & Encina Ave

46 Accidents

01/01/95 - 12/27/01









(clear filter), (O) accidents with insufficient data for display

- | | | | |
|--------------|------------------|--------------|----------------|
| ← Straight | ▮ Parked | × Pedestrian | Fixed objects: |
| ↕ Stopped | ↪ Erratic | ⊗ Bicycle | □ General |
| ← Unknown | ↪ Out of control | ○ Injury | ▣ Signal |
| ↪ Backing | ↪ Right turn | ⊙ Fatality | ▣ Tree |
| ↪ Overtaking | ↪ Left turn | ⌚ Nighttime | ⊗ Pole |
| ↔ Sideswipe | ↪ U-turn | ⚠ DUI | ⊗ Curb |
| | | | ⊗ Animal |
| | | | ⊗ 3rd vehicle |
| | | | * Extra data |

ENCINA / LA LOMA NEIGHBORHOOD TRAFFIC CALMING PLAN



LEGEND

 YIELD	 PROPOSED SPEED CUSHIONS	 SIGNALS
 STOPS	 EXISTING SPEED HUMP	 ROUNDABOUT

ADDITIONAL POTENTIAL TRAFFIC CALMING MEASURES

1. NEW CENTER LINES AND FOG LINES ON ENCINA AVENUE.
2. REPLACE PEDESTRIAN SIGNS WITH FLOURESCENT GREEN SCHOOL CROSSING SIGNS.

EXHIBIT 6

ENGINEER'S ESTIMATE
Encina/La Loma Traffic Calming Plan

	320 FT		8.00
AREA CALC; STREET LENGTH			R-VALUE = 40
	56 FT		
	17920 SF		
ASPHALT THICKNESS	0.4 FT =		4.80 IN
BASE THICKNESS	0.65 FT =		7.80 IN

NO.	DESCRIPTION	Quantity	Unit	Unit Price	Total Price
1	Paint Binder	0.7	T	\$300.00	\$210.00
2	Wedge Plane	752	LF	\$1.00	\$752.00
3	Asphalt Concrete	530	T	\$45.00	\$23,850.00
4	Prime Coat	2	T	\$300.00	\$600.00
5	Aggregate Base	431	CY	\$25.00	\$10,775.00
6	Excavation	696	CY	\$20.00	\$13,920.00
7	Curb and Gutter	640	LF	\$15.00	\$9,600.00
8	Sidewalk	3200	SF	\$3.00	\$9,600.00
9	Curb returns	2	EA	\$1,000.00	\$2,000.00
10	Handicapped Ramps	2	EA	\$1,500.00	\$3,000.00
11	Street Lights	2	EA	\$5,000.00	\$10,000.00
12	Roundabout (Conejo/Encina)	1	EA	\$100,000.00	\$100,000.00
13	Speed Cushion (Roble-1, Encina-3, Edgebrook-2)	6	EA	\$5,000.00	\$30,000.00
14	Signs and Striping	LS	LS	\$10,000.00	\$10,000.00
15	Misc. Materials & labor, including: traffic control, barricades,	LS	LS	\$10,000.00	\$10,000.00
<u>EXPENDITURE CODE</u>					
	Subtotal Contract Items:	6040			\$234,307.00
				PERCENT	
	Preliminary Engineering	6010		10%	\$23,430.00
	Construction Engineering	6060		8%	\$18,744.00
	Contingencies:	6050		10%	\$23,430.00
	Contract Total:				\$299,911.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-433**

A RESOLUTION DESIGNATING THE PROPERTY AT 503 W. MORRIS AVENUE AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: FERN McDONALD)

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 April 21, 2003 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 2003-1, that the property at 503 W. Morris Avenue 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 June 2, 2003, and supported the Landmark Preservation Commission recommendation, and

WHEREAS, after a public hearing held on August 6, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 503 W. Morris Avenue is eligible for designation as a

Landmark Preservation Site for the 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 503 W. Morris Avenue is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 503 W. Morris has historical significance for the following reason:

This 1927 English Tudor home was originally owned by Clarence and Birdella Johnson. The Johnsons lived in the house from 1927 into the 1990's. Mr. Johnson owned the "Clarence Johnson Insurance Company" in downtown Modesto for many years. Mrs. Johnson was very active in community activities and organizations. Upon Mrs. Johnson's death in the 1990's, Carolynn Beard, of Beard Industries, and three other family members inherited the house.

BE IT FURTHER RESOLVED that the property at 503 W. Morris Avenue has architectural significance as a fine example of an English Tudor 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 of construction, builder or architect.

Built in 1927, this English Tudor-style house has a heavy shingled, multi-pitched roof with stucco walls and an arched extension of the front gabled wall, and double hung, multi-pane windows. The house also has a front "tabbed" door surround. A master bedroom was added in 1932 and a master bath was annexed around 1945-50. The English Tudor style was introduced to the United States in the late 19th Century.


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 6th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:  Acting
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI# _____
Trinomial _____
NRHP Status Code _____

Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 3 *Resource Name or #: (Assigned by recorder) _____

P1. Other Identifier: _____

*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 _____ Date _____ T _____ R _____ 1/4 of _____ 1/4 of Sec _____ B.M.
- c. Address 503 W. Morris Ave. 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)

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries) Parcel No. 110-01-35
Built in 1927, this Tudor-style house has a heavy shingled, multi-pitched roof with stucco walls and an arched extension of the front gabled wall, and double hung, multi-pane windows. The house also has a front "tabbed" door surround. A master bedroom was added in 1932 and a master bath was annexed around 1945-1950.

*P3b. Resource Attributes: (List attributes and codes) HP2 (Single-family)

*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 #) _____
south view

*P6. Date Constructed/Age and Source: Historic Prehistori
 Both
1927

*P7. Owner and Address: _____
Fern McDonald
503 W. Morris Ave.
Modesto, CA 95354

*P8. Recorded by: _____
(Name, affiliation, and address)
Barbara Parrill,
Landmark Preservation
Commissioner

*P9. Date Recorded: 3/4/03

*P10. Survey Type: (Describe) California Register Nomination

*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): _____

State of California - The Resources Agency Primary # _____
 DEPARTMENT OF PARKS AND RECREATION
 BUILDING, STRUCTURE, AND OBJECT RECORD HRI # _____

Page 2 of 3 *NRHP Status Code _____
 *Resource Name or #(Assigned by recorder) _____

- B1. Historic Name: Johnson House
- B2. Common Name: McDonald House (Present Owner)
- B3. Original Use: Single-family Residence
- B4. Present Use: Single-family Residence
- *B5. Architectural Style: English Tudor
- *B6. Construction History: (Construction date, alterations, and date of alterations)

This house was built in 1927. A master bedroom was added in 1932 and a master bath was added in 1945-1950.

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____

*B8. Related Features: None.

B9a. Architect Unknown b. Builder: Unknown

*B10. Significance: Theme _____ Area: _____

Period of Significance: 1920's Property Type: _____ Applicable Criteria: _____
 (Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

This 1927 Tudor house was originally owned by Clarence and Birdella Johnson. The Johnsons lived in the house from 1927 into the 1990's. Mr. Johnson owned the "Clarence Johnson Insurance Company" in downtown Modesto for many years. Mrs. Johnson was very active in community activities and organizations including the Garden Club, the Nature Club and the Lutheran Church. Upon Mrs. Johnson's death in the 1990's (Mr. Johnson had passed away earlier), her niece, Caroline Beard, of Beard Industries, inherited the house and lived there while attending Modesto Junior College. The current owner, Fern McDonald, is only the second owner of this house.

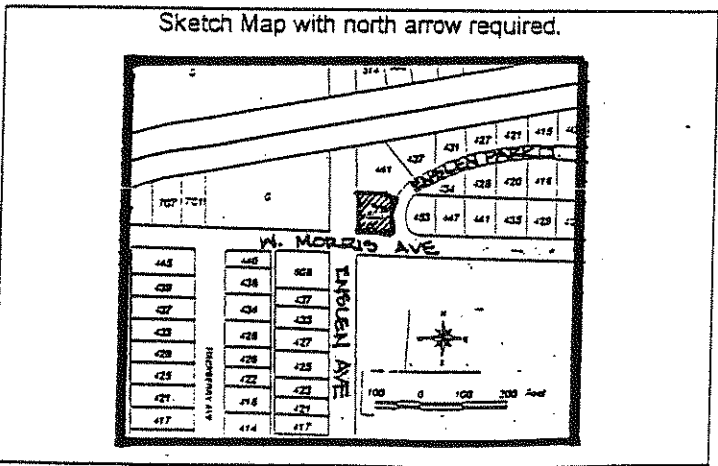
B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

B13. Remarks:

*B14. Evaluator:

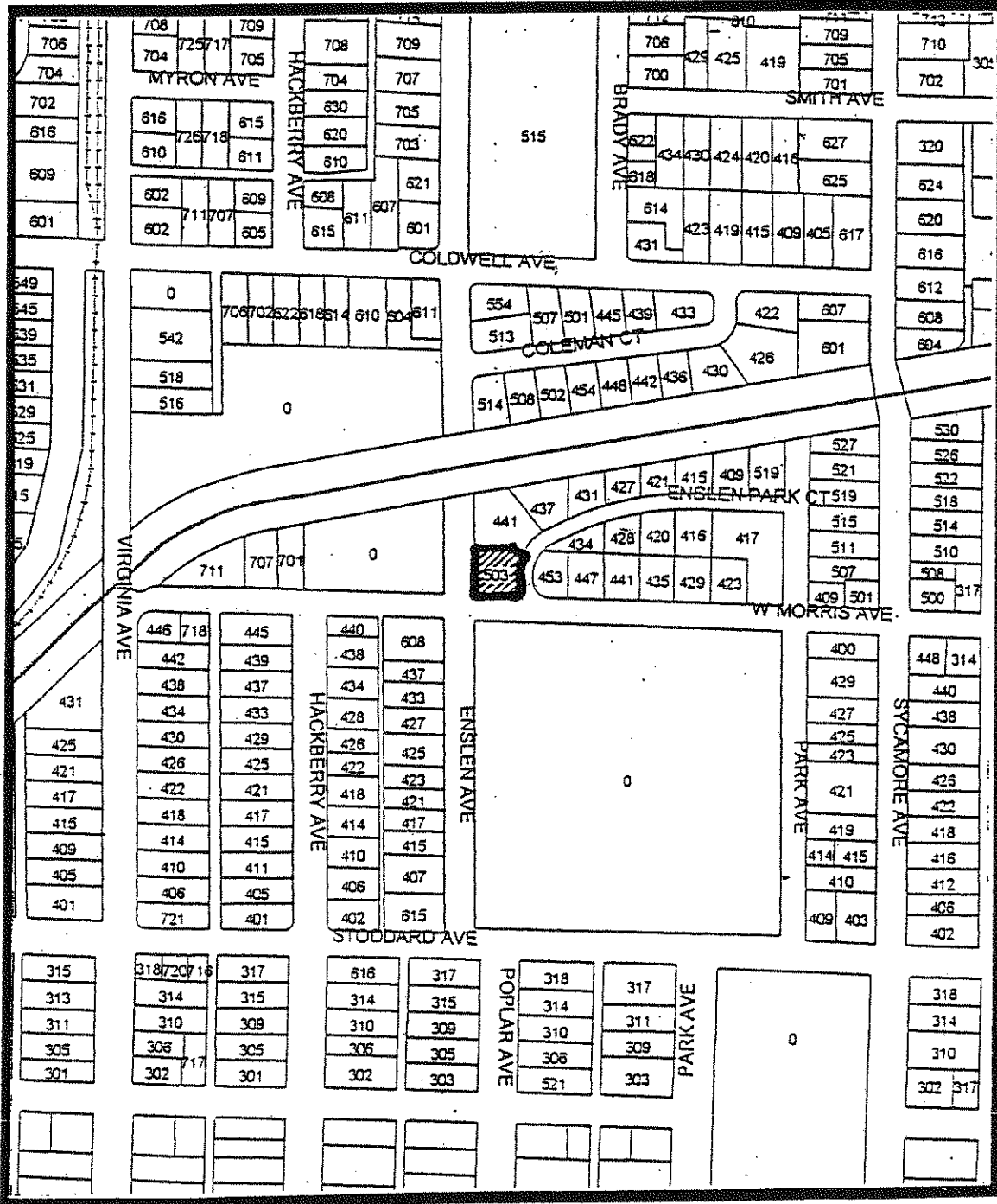
*Date of Evaluation: _____
 (This space reserved for official comments)



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
LOCATION MAP

Primary # _____
HRI# _____
Trinomial _____

Page 3 of 3 *Resource Name or # (Assigned by recorder) _____
*Map Name: _____ *Scale: _____ *Date of map: 3/4/03



MODESTO CITY COUNCIL
RESOLUTION NO. 2003-434

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND CHARLES S. CLAYTON FOR ASSESSORS PARCEL NUMBER: 101-0311 FOR THE ACQUISITION OF PROPERTY AT 421 N. WASHINGTON STREET FOR THE CORPORATION YARD EXPANSION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT.

WHEREAS, the City Council of the City of Modesto has approved the Corporation Yard Expansion Project ("Project") to acquire additional land for expansion of the Corporation Yard as part of the City's Capital Improvement Program projects, and

WHEREAS, certain real property needs to be acquired for said Project which property is located at 421 N. Washington Street and identified as Assessor's Parcel No: 101-0311, and which property is owned by Charles S. Clayton, and

WHEREAS, an agreement is needed for the acquisition of the needed real property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between City of Modesto and Charles S. Clayton, for the Corporation Yard Expansion Project is hereby approved.

BE IT FURTHER RESOLVED THAT the execution of said Agreement by the City Manager or his designee on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

Approved as to Form:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-435**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ACCEPTANCE FORM FOR A GRANT DEED FOR THE ACQUISITION OF PROPERTY OWNED BY CHARLES S. CLAYTON LOCATED AT 421 N. WASHINGTON STREET WHICH IS IDENTIFIED AS ASSESSORS PARCEL NO: 101-0311 FOR THE CORPORATION YARD EXPANSION 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 from Charles S. Clayton located at 421 N. Washington Street which is identified as Assessors Parcel No: 101-0311 for the Corporation Yard Expansion 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 a Certificate of Acceptance on behalf of the City of Modesto for the Grant Deed for the acquisition of property for the Corporation Yard Expansion Project.

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 sign any and all documents related to the purchase of real property on behalf of the City of Modesto as it is required for the acquisition of the property for the Corporation Yard Expansion Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, CITY CLERK

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 – 436**

A RESOLUTION APPROVING THE ACCEPTANCE OF AN ESTIMATED \$1,500,000 AIRPORT IMPROVEMENT PROGRAM GRANT TO RECONSTRUCT THE COMMERCIAL SERVICE RUNWAY (RW 10L/28R) AT MODESTO CITY-COUNTY AIRPORT AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE ACCEPTANCE OF THE GRANT ON BEHALF OF THE CITY

WHEREAS, according to a pavement evaluation, Modesto City-County Airport's commercial service runway (RW10L/28R) needs a new pavement surface, and

WHEREAS, the City of Modesto submitted a grant application for the runway's reconstruction to the Federal Aviation Administration (FAA), and the FAA partially funded the project in fiscal year 2002 to enable the City to have project plans and specifications prepared, and

WHEREAS, the project plans and specifications have been completed, and the City accepted bids for the project on July 1, 2003, and

WHEREAS, the low bid is excellent as it is 35% below the engineer's estimate; however, to date, the FAA has not been able to present a grant offer to the City, and

WHEREAS, FAA officials have given verbal assurance to city staff that they will be providing a grant offer by the end of the month of August and that the grant amount and the funds already awarded will be large enough to cover 90% of the runway project cost, and

WHEREAS, acceptance of the grant prior to knowing its exact amount will give the City a better opportunity to complete the runway project before the end of this year's construction season, and

WHEREAS, the City Attorney's Office has suggested that airport staff request Council to approve the grant prior to knowing the grant amount as long as the requirements of the grant are not different than adopted by Congress and the Administration,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of an estimated \$1,500,000 Airport Improvement Program grant for the reconstruction of Modesto City-County Airport's RW 10L/28R.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-437**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$578,625.40
CONTRACT WITH D.A. WOOD CONSTRUCTION, INC., FOR THE PROJECT
TITLED "VILLAGE ONE FORCE MAIN," AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the bids received for the VILLAGE ONE FORCE MAIN project were opened at 11:00 a.m. on July 29, 2003 and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$578,625.40 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 accepts the bid of \$578,625.40, and hereby awards D.A. WOOD CONSTRUCTION, INC. the contract titled "VILLAGE ONE FORCE MAIN."

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 August, 2003 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: *Jean Zahr* Acting
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-438**

**A RESOLUTION AWARDED BID AND APPROVING A \$136,693
CONSTRUCTION CONTRACT WITH RICHARD A. HEAPS FOR THE
PROJECT ENTITLED "REWIRE 8 TRAFFIC SIGNALS"**

WHEREAS, the bids received for the "Rewire 8 Traffic Signals" project were opened at 11:00 a.m., on July 15, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$136,693 received from Richard A. Heaps be accepted as the lowest responsible bid,


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of Richard A. Heaps, be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino


NOES: Councilmember: None

ABSENT: Councilmember: None

Attest: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 439**

**A RESOLUTION APPROVING A REVISED POLICY FOR INVESTMENT OF
PUBLIC FUNDS, POLICY NO. 1.019**

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, by an Agenda Report dated July 30, 2003, from the Director of Finance, the recommendation has been made to revise Policy No. 1.019 relating to the Investment of Public Funds, and

WHEREAS, the proposed changes appear under “Authorized Investment Personnel” on pages 3 and 4, a copy of the proposed 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 revised policy for Investment of Public Funds, Policy No. 1.019.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney



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:

“Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not of speculation, but for investments, considering the probable safety of their capital as well as the probable cause to be derived.”

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 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, date of maturity, 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.

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. Bonds issued by the City.

B. 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. Registered State of California warrants, treasury notes or bonds.

D. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California.

E. Obligations issued by a federal agency or United States government-sponsored enterprise.

- F. Bills of exchange or time drafts (bankers acceptances) drawn on and accepted by a commercial bank.
- G. Commercial paper of “prime” quality.
- H. Certificates of deposit (CD) and negotiable certificates of deposit (NCD) issued by a nationally or state-chartered bank or a state or federal association or a state-licensed branch of a foreign bank.
- I. Investment in repurchase agreements or reverse repurchase agreements of any authorized securities.
- J. Medium-term corporate notes of a maximum of five years maturity issued by corporations operating within the United States.
- K. Shares of beneficial interest issued by diversified management companies as defined in Section 23701(m) of the Revenue and Taxation Code (mutual funds).
- L. State of California Local Agency Investment Fund (LAIF).
- M. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond of a maximum of five years maturity.

Detailed descriptions of investment instruments and terms are provided in Appendix A - Glossary.

AUTHORIZED INVESTMENT PERSONNEL

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.

The Finance Director/Treasurer or Designee is authorized to make all investment transactions allowed by the Investment Policy. The Finance Director/Treasurer may authorize the Designee to enter into investments within specified parameters. 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.

~~As part of each year's financial audit of the City, the external auditors shall review the Authorized Investment Personnel arrangement, and convey to the City Council any problems or recommended changes therein.~~

This policy and the internal controls related to the investment of City funds will be reviewed by the City's independent external auditors in the conduct of their annual audit of the City.

RESTRICTIONS SET BY GOVERNMENT CODE

A. General

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.

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.

B. Bankers Acceptance (Bills of Exchange or Time Drafts)

Required to be eligible for purchase by the Federal Reserve System.

Must not exceed 180 days maturity.

Must not exceed 40% of the City's surplus funds. No more than 30% of the City's surplus funds can be invested in the Bankers Acceptance of any one commercial bank.

C. Commercial Paper

Must be "prime" quality of the highest ranking as provided by Moody's Investment Service, Inc. or Standard and Poor's Corporation (A-i, P-i).

Limited to issuing corporations that are organized and operating within the United States with total assets in excess of \$500,000,000.

Must not exceed 180 days maturity.

Must not represent more than 10% of the outstanding paper of an issuing corporation.

Must not exceed 15% of the City's surplus funds.

May invest an additional 15% if the dollar-weighted average maturity of the entire amount of commercial paper outstanding does not exceed 31 days.

D. Certificates of Deposit

Require 110% government security collateralization by the institution.

E. Negotiable Certificates of Deposit

Must not exceed 30% of the City's surplus funds.

F. Repurchase Agreements

Must not exceed 365 days maturity.

Market value of collateral shall be 102 percent of the funds borrowed against those securities, adjusted at least on a quarterly basis.

G. Reverse Repurchase Agreements

Require prior approval of the City Council.

Must not exceed 20% of the City's surplus funds.

Security must have been held for a minimum of 30 days.

Term must not exceed 92 days unless the agreement matches a matching codicil guaranteeing a minimum earning spread.

H. Medium Term Corporate Notes

Notes must be rated in the top three rating categories by two of the three largest nationally recognized rating agencies.

Issuer must be organized and operating within the U.S. or be a depository institution licensed by the U.S. or any state and operating within the U.S.

Must not exceed 30% of the City's surplus funds.

I. Diversified Management Companies (Mutual Funds)

Fund must be rated in the top three rating categories by two of the three largest nationally

recognized rating agencies.

Must not exceed 15% of the City's surplus funds. No more than 10% of the City's surplus funds may be invested in any one mutual fund.

RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER

A. Prior approval of the Finance Director is required for the following transactions:

- Sale of securities
- Swaps and trades
- Purchase of collateralized mortgage obligations (CMO)
- Purchase of mortgage-backed obligations
- 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

APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)

Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to¹ 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. LAIF 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’s

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.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-440**

A RESOLUTION AUTHORIZING THE AWARD OF TIRE RECAPPING AND RELATED SERVICES TO BRANNON TIRE, STOCKTON, CA FOR AN ESTIMATED ANNUAL COST OF \$21,418.17 FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Operations and Maintenance Department Fleet Services Division requests tire recapping and related services for its fleet of transportation buses and corporation yard trucks, and

WHEREAS, services include but are not limited to the mounting and balancing of new tires, flat repair and off site tire repair, and

WHEREAS, recap tires provide a cost savings to the City by extending the life of a tire, and the average life span for a recapped tire is equivalent to that of a new tire, and

WHEREAS, the City realizes a cost savings with tire recapping as the unit price of a new front-end bus tire (12R225) is \$179.00, and the City currently pays a unit price of \$89.00 for this same size of tire in a recap, and

WHEREAS, Fleet Services recaps approximately 54 (12R225) tires per year, and this size alone represents an annual cost savings of \$4,860.00, and

WHEREAS, Fleet Services anticipates recapping approximately 115 tires of various sizes annually, and

WHEREAS, the anticipated annual cost savings to the City is approximately \$10,350.00, and

WHEREAS, the City does not recap tires for Police and Fire vehicles, and Police and Fire vehicles are not part of this recommendation, and

WHEREAS, in November 2002, Council approved Resolution No. 2002-587 authorizing the Purchasing Supervisor to formally solicit bids for tire recapping and related services for the Operations and Maintenance Department Fleet Services Division's fleet of transportation buses and corporation yard trucks, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-18. This bid contained newly adopted language requiring vendors to submit two (2) original bid documents for file retention, and

WHEREAS, sixteen (16) vendors were solicited with two (2) vendors choosing to respond, and

WHEREAS, of the two (2) respondents only one vendor submitted two (2) original bid documents, and

WHEREAS, the second vendor submitted only one (1) original bid document, and

WHEREAS, to reject one of the bidders based on the fact that one did not supply two (2) original bids would be counterproductive to the competitive process, and

WHEREAS, therefore, to ensure that the competitive process was met, the Purchasing Division requested that Council authorize the rejection of all bids submitted in Request for Bid No. 0203-18 and allow the Purchasing Division to re-issue bids for tire recapping and related services, and

WHEREAS, in April 2003, Council approved Resolution No. 2003-198 authorizing the Purchasing Supervisor to reject all bids and to re-bid tire recapping and related services for a three year (3) agreement with two (2) one-year extension options, and

WHEREAS, the Purchasing Division contacted the fourteen (14) vendors who did not respond to Request for Bid No. 0203-18 to find out why, and

WHEREAS, seven (7) vendors did not, or no longer, furnish tire recapping, five (5) vendors said they did not receive the bid but were interested in participating and two (2) vendors said they were too busy at the time to respond, and

WHEREAS, as approved by Council with Resolution No. 2003-198 the Purchasing Division re-issued bids for tire recapping and related services by soliciting Request for Bid No. 0203-36, and

WHEREAS, bids were solicited from nine (9) vendors and three (3) chose to respond, and

WHEREAS, on June 3, 2003 bids were opened and rerecorded in the City Clerk's office, and

WHEREAS, it is recommended by staff that the City award the bid for tire recapping and related services to Brannon Tire, Stockton, CA for an estimated annual cost of \$21,418.17, for a three (3) year agreement with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the proposal for tire recapping and related services to Brannon Tire, Stockton, CA for an estimated annual cost of \$21,418.17, for a three (3) year agreement with 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 August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

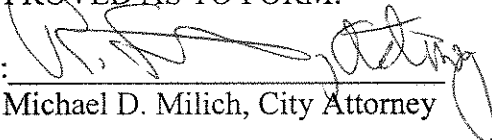
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-441**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A REQUEST FOR BID (RFB) FOR LIQUID CHLORINE AND SODIUM HYPOCHLORITE FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ONE-YEAR CONTRACT EXTENSIONS, FOR AN ESTIMATED ANNUAL COST OF \$184,000.00.

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) is requesting the purchase of liquid chlorine, and

WHEREAS, the estimated annual cost for liquid chlorine is \$134,000.00, and

WHEREAS, the Operations and Maintenance Department-Water Division is requesting the purchase sodium hypochlorite, and

WHEREAS, the estimated annual cost for sodium hypochlorite is \$50,000.00, and

WHEREAS, liquid chlorine (CL2) is used during river discharge season from October 1st through May 31, and

WHEREAS, this product is utilized at the Jennings Road facility to chlorinate and disinfect our final effluent to the San Joaquin River, as required in the City's permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River, and

WHEREAS, the plant was constructed in 1965 and in 1985 the CL2 system was installed, and

WHEREAS, the system includes 26 one-ton tanks with four chlorinators, and

WHEREAS, at present, the Jennings Facility is using a gas feed system, and

WHEREAS, to unload the one-ton chlorine cylinders, the unloading station uses a 4,000 pound capacity hoist to unload the one-ton cylinder, and

WHEREAS, the City of Modesto Water Division uses sodium hypochlorite to disinfect the domestic water supply as specified by water purveyors permit as issued by the California Department of Health Services, and

WHEREAS, the disaffection process, using a 12.5% Sodium Hypochlorite Solution, has provided drinking water disaffection while maintaining a chlorine residual in the distribution system to protect our customers from possible water borne disease, since 1995, and

WHEREAS, sodium hypochlorite is a liquid solution containing chlorine in a salt form, and

WHEREAS, this is a more concentrated form of the same solution that is the familiar laundry bleach (5.5% sodium hypochlorite), and

WHEREAS, this allows for well water and the water distribution systems to be chlorinated in as safe a form as possible for both City personnel and City customers, and

WHEREAS, the City of Modesto Water Division Staff has found that the use of a pure solution of 12.5% Sodium Hypochlorite solution has several disinfecting benefits, and

WHEREAS, sodium hypochlorite is a more stable solution that does not deteriorate as quickly as the solutions of less pure quality, and

WHEREAS, the more stable the solution, the greater the consistency of the chlorine dosage, and

WHEREAS, there are fewer residues, and therefore less maintenance time required on the chlorinating system, and

WHEREAS, by soliciting competitive bids for liquid chlorine and sodium hypochlorite, the Finance Department, City Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.203, regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves formal solicitation of bids for liquid chlorine and sodium hypochlorite for an initial three (3) year period, with two (2) one-year contract extensions, for an estimated annual cost of \$184,000.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for liquid chlorine and sodium hypochlorite to be opened in 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 12th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

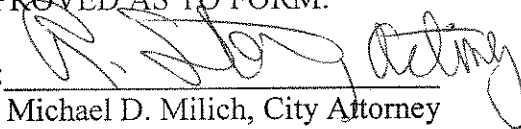
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-442**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BID (RFB) FOR A ROTARY DISTRIBUTOR CENTER
ASSEMBLY**

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) is requesting the purchase of a rotary distributor center assembly, and

WHEREAS, the estimated cost for a rotary distributor center assembly is \$96,000.00, and

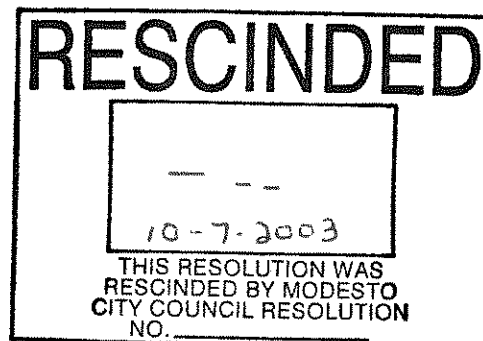
WHEREAS, the mast type rotary distributor is a major component to the fixed film reactors located at the Secondary Treatment Plant, located at 7007 Jennings Road, and

WHEREAS, it is utilized to evenly distribute waste water over reactor media, and

WHEREAS, the purpose of the reactor is to remove Bio Oxygen Demand (BOD) from the waste water, and

WHEREAS, by soliciting competitive bids for a rotary distributor center assembly, the Finance Department Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.203, regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves formal solicitation of bids for a rotary distributor center assembly as follows:



2003-528

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for a rotary distributor center assembly 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 12th day of August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: *Marilyn Porey, Acting*
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: *M. D. Milich*
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-443**

A RESOLUTION TO CONSIDER AUTHORIZING THE INFORMATION TECHNOLOGY DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR A REQUIREMENTS AND WORKFLOW ANALYSIS OF THE CITY'S LAND USE AND FINANCIAL BUSINESS PROCESSES.

WHEREAS, the Information and Technology Department has requested a requirements and workflow analysis study of the City's land use and financial business processes, and

WHEREAS, the City has a need for integrated business software systems to improve the integrity of its information and reduce inefficiencies from redundant systems, and

WHEREAS, the City needs to understand its business system requirements in order to ensure that information required to make sound business decisions is available and reliable, and

WHEREAS, Modesto Municipal Code (MMC), 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, one exception to the formal bidding requirements is contracts for Professional Services. (MMC8-3.204)(a).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Information Technology Department to issue a call for Request for Proposal (RFP) to perform a Requirements and Workflow Analysis study of the City's land use and financial business processes.


BE IT FURTHER RESOLVED that the Council hereby authorizes said Request for Proposal (RFP) to be evaluated and a recommendation for award made based on criteria outlined in the Request for Proposal (RFP). The Information Technology Department will then present a recommendation for award 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 August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

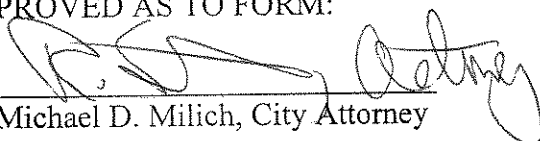
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: 
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-444**

**A RESOLUTION AUTHORIZING WITHDRAWAL OF ACCEL RETRO FUNDS
IN THE AMOUNT OF \$700,000; LEAVING A BALANCE OF \$525,102 ON
DEPOSIT.**

WHEREAS, the City of Modesto has participated in Authority for California Cities Excess Liability (ACCEL) - a risk sharing pool since May '86, and

WHEREAS, each member city maintains premium deposits on account with ACCEL to cover potential pooled losses, and

WHEREAS, each year a retrospective rating calculation is run to determine assessments or refunds to members based upon actual loss experience, and

WHEREAS, this year's calculation results in refund a to the City of Modesto in the amount of \$1,225,102 for Program Years through FY 97/98, and

WHEREAS, this refund may be left on deposit with ACCEL or withdrawn in whole or in part, and

WHEREAS, the City desires to withdraw the sum of \$700,000 from ACCEL, with \$200,000 of that amount to be credited to the City's self-insured Liability Fund and \$500,00 to be credited to the City's self-insured Workers' Compensation Fund, and

WHEREAS, the balance of the refund in the amount of \$525,102 shall remain on deposit with ACCEL, and the City may, upon Council approval, make additional withdrawals from ACCEL prior to December 31, 2003, if funds are needed, and

WHEREAS, the Finance Committee reviewed this matter at its July 21, 2003 meeting, and supported the recommendation to withdraw funds in the amount of \$700,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes withdrawal of the amount of \$700,000 from ACCEL for the purpose of depositing \$200,000 in the City's self-insured Liability and \$500,000 in the City's Workers' Compensation Fund.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to instruct the Treasurer of ACCEL to pay the City of Modesto the sum of \$700,000 from said ACCEL fund and to execute all necessary documents to complete said financial transactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

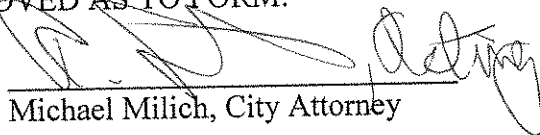
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
Michael Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-445**

**A RESOLUTION AMENDING THE FY 2003/2004 OPERATING BUDGET TO
RECOGNIZE \$700,000 IN REVENUE AND TRANSFER \$500,000 OF SAID
REVENUE FROM THE LIABILITY FUND TO THE WORKERS'
COMPENSATION FUND**

WHEREAS, the City of Modesto has elected to withdraw \$700,000 from the Authority for California Cities Excess Liability (ACCEL) risk sharing pool, and

WHEREAS, the City of Modesto desires to recognize the \$700,000 in retrospective refunds as revenue to the City's Liability Fund, and

WHEREAS, the City desires to transfer \$500,000 of this revenue from the City's Liability Fund to the City's Workers' Compensation Fund, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2003/2004 Operating Budget is hereby amended to recognize additional revenue of \$700,000 to the Liability Fund (7330-030-6611) and to transfer \$500,000 of that revenue to the Workers' Compensation Fund (7320-030-6610).

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 August 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

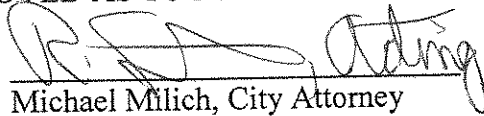
AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
Michael Milich, City Attorney

AMENDED
on Mar. 22, 2011
By Resolution 2011-106

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003 – 446**

A RESOLUTION AMENDING OR ADOPTING USER FEES FOR DEVELOPMENT RELATED ACTIVITIES AND AMENDING RESOLUTION NOS. 1989-1003, 1989-1004, 1989-1005, 1989-1006, 1990-521A, 1990-832, 1992-255, 1992-271, 1993-263, 1993-351, 1993-587A, 1997-93, 2000-232, 2001-17, and 2002-200, RELATED TO DEVELOPMENT USER FEES, APPROVING THE USE OF A COST OF LIVING ADJUSTMENT TO ADJUST MOST FEES AT FULL COST, WITH SPECIFIED EXCEPTIONS, AND ESTABLISHING A POLICY TO COMPREHENSIVELY ANALYZE FEES IN THE FIFTH YEAR OF THE FEE SCHEDULE.

WHEREAS, California Government Code Section 66014 authorizes fees for zoning variances and changes, use permits, building inspections, building permits, and filing and processing applications, and

WHEREAS, the City Council of the City of Modesto has adopted various ordinances and resolutions authorizing the establishment of development user fees, and

WHEREAS, Sections 10-2.1704, 10-2.2506, 10-2605, 10-2.2.703 and 10-2.2803 of the Modesto Municipal Code authorizes the Council to establish by resolution the filing fees for each planning application filed pursuant to Chapter 2 of Title X of said Code, and

WHEREAS, Sections 4-10.01 et seq. of the Modesto Municipal Code and the “Guide to CEQA Procedures for the City of Modesto” permit charges for environmental review, and

WHEREAS, Fish and Game Code Section 711.4 requires payment of “filing fees” to the State Department of Fish and Game of \$850.00 for EIRs and \$1,250.00 for Negative Declarations, upon filing the Notice of Determination, and

AMENDED
on January 8, 2013
By Resolution 2013-36

AMENDED
on Sept. 25, 2012
By Resolution 2012-384

WHEREAS, in accordance with existing legislation, the County Clerk-Recorder is empowered to collect an administrative fee for filing of all Notices of Determination, and

WHEREAS, Section 5-6.08 of the Modesto Municipal Code authorizes the City Council to establish fees to cover all costs incurred by the City of Modesto for preparation of plans and specifications and inspections for construction of sewer laterals in the City in accordance with a schedule to be approved by Council from time to time by resolution, and

WHEREAS, Section 7-1.108 of the Modesto Municipal Code authorizes the City Council to establish fees for services performed by the City of Modesto pursuant to Chapter 1 of Title VII of the Modesto Municipal Code, including but not limited to issuance of encroachment permits, work relating to street, sidewalk, curb and gutter improvements, in accordance with a schedule to be approved by the City Council from time to time by resolution, and

WHEREAS, Section 7-2.15 of the Modesto Municipal Code authorizes the City Council to establish fees for inspection for temporary closing of public ways in the City of Modesto in accordance with a schedule of fees approved by the City Council from time to time by resolution, and

WHEREAS, Section 7-2.23 of the Modesto Municipal Code authorizes the City Council to establish fees for street cuts inspections performed by the City of Modesto in accordance with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 7-2.29 of the Modesto Municipal Code authorizes the City Council to establish fees for trench restoration in accordance with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 4-4.803.1 of the Modesto Municipal Code authorizes the City Council to establish fees for street trees required in subdivisions, and

WHEREAS, Resolution 2000-232, adopted by the City Council on May 16, 2000, provides the method of assessing the street tree fee at the time of final subdivision map filing, to prevent overcharges from occurring, and

WHEREAS, Modesto Municipal Code Section 4-4.802(i) authorizes the City Council to establish street sign fees in accordance with a schedule approved by the Council from time to time by resolution, and

WHEREAS, Section 4-4.106 of the Modesto Municipal Code authorizes the City Council to establish, by resolution, filing fees for the processing of tentative and final subdivision and parcel maps and for other procedures required or authorized by Chapter 4 of Title IV of the Modesto Municipal Code, and

WHEREAS, Section 4-4.804(c) of the Modesto Municipal Code authorizes the City Council to establish, by resolution, the amount of cash deposit required to be furnished to the City of Modesto for each interior monument to be set after the filing of a final subdivision map, and

WHEREAS, Section 9-1.08 of the Modesto Municipal Code authorizes the City Council to establish building permit, plan checking and investigation fees in accordance with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 4-3.08 of the Modesto Municipal Code authorizes the Council to establish by resolution, investigation and permit fees relating to the moving of houses, and

WHEREAS, Section 3-1.108 of the Modesto Municipal Code authorizes the City Council to establish Fire Prevention Bureau Fire Safety Plan Checking and inspection fees, and

WHEREAS, Section 12-1.08 of the Modesto Municipal Code authorizes the City Council to establish, by resolution, a landscaping and irrigation plan review fee and a landscape inspection fee in accordance with rates approved by the Council from time to time, and

WHEREAS, collectively, the above fees are referred to as “Development User Fees”, which are charged by the City of Modesto to pay for the cost of various development services provided by City staff, and

WHEREAS, the current Development User Fees are set forth in City Council Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 90-521A, 90-832, 92-255, 92-271, 93-263, 93-351, 93-587A, 97-93, 00-232, 01-17, and 02-200, and

WHEREAS, the above-referenced resolutions previously adopted the current Development User Fees for the City of Modesto, and

WHEREAS, since adoption of the existing fees pursuant to the above referenced resolutions, the City has received a report entitled Development User Fee Study Report for the City of Modesto, from MuniFinancial, A Wildan Company, attached hereto as **Attachment A**, which provides background information and justification for updating the City’s Development User Fees, and

WHEREAS, the Development User Fee Study Report has been made available for public inspection, and may be viewed during business hours in the Office of the City Clerk, and these documents establish the factual basis for adjusting or creating fees in accordance with their recommendation, and set forth the relationship between development and development user fees, and

WHEREAS, the fees collected pursuant to this resolution will be used to cover the costs associated with the processing of development related services, and

WHEREAS, a Notice of Public Hearing was published in the Modesto Bee on June 9, 2003, and

WHEREAS, the public hearing was opened on June 24, 2003, at which time public testimony was taken, and

WHEREAS, Council provided direction for changes to the Development User Fee Program, and

WHEREAS, Council established a policy to recover most fees at full cost, with some exceptions, and

WHEREAS, Council established a policy of automatic annual adjustment of most fees with some exceptions, based on the increased cost of providing the service brought on by inflation, and

WHEREAS, Council established a policy of undertaking a comprehensive analysis of the fees in the fifth year of the fee schedule, and

WHEREAS, Council directed staff to prepare resolutions to implement the 2003 Development User Fee Study Report for the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council finds and determines that Resolutions 89-1003, 89-1004, 89-1005, 89-1006, 90-521A, 90-832, 92-255, 92-271, 93-263, 93-351, 93-587A, 97-93, 00-232, 01-17, and 02-200, are hereby amended as follows:

A. The fees set forth in the Development User Fee Schedule, attached as **Attachment B** and incorporated herein by reference are hereby adopted or revised as the case may be.

B. The fees set forth in the previous paragraph, where indicated, shall be automatically adjusted in accordance with changes in the annual Employment Cost Index, as set forth in **Attachment C**, attached hereto and incorporated herein by this reference. The adjustment shall be made and published annually on or before July 1st of each year, by the Finance Department.

C. The Community and Economic Development Department shall conduct a comprehensive analysis of all fees, every five years.

BE IT FURTHER RESOLVED that the Council finds that there exists a direct relationship between the fees charged and the cost of service delivery.

BE IT FURTHER RESOLVED that the Council finds that the California Environmental Quality Act (CEQA) does not apply to the adoption of this resolution pursuant to Sections 15378(b)(4).

BE IT FURTHER RESOLVED that the Council finds that Development User Fees, as herein defined, shall be due and payable at the time a building permit is issued, unless otherwise approved by Council resolution, as set forth in Modesto Municipal Code Section 8-1.904.

BE IT FURTHER RESOLVED that the Council finds that should any fee, provision, clause, paragraph or subparagraph be held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications thereof which can be given effect without the invalid fee, provision, clause, paragraph, or subparagraph, and to this end, the provisions are declared severable. By adopting this resolution, the City Council hereby declares that it would have adopted this resolution without that fee, provision, clause, paragraph or subparagraph.

BE IT FURTHER RESOLVED by the City Council that this resolution shall take effect in accordance with the law sixty (60) calendar days from the date of adoption 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 August, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Keating

ABSENT: Councilmembers: None

ATTEST: Marilyn Honey, Acting
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM

By: [Signature]
MICHAEL D. MILICH, City Attorney

**DEVELOPMENT USER
FEE STUDY REPORT
FOR THE
CITY OF MODESTO**

JUNE 2003



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INTRODUCTION AND APPROACH

As more fiscal limitations are imposed on local governments in California, user fees have become an important source of revenue for these jurisdictions. A user fee, or service fee, is a payment made by an individual for a service that primarily benefits the individual. Public agencies can impose a user fee for a government service when (1) the individual's decision to use the service is voluntary, and (2) the fee charged to an individual user is reasonably related to the level of service rendered and the cost of providing that service.

User fees in California are required to conform to the statutory requirements of the California Constitution and the California Code of Regulations, including Government Code Section 66000 et. seq. By law, user fees may not exceed the reasonable costs of the services for which they are collected unless the excess fees are approved by a two-thirds vote of the electorate.

Study Objectives

The City believes that the current master fee schedule does not accurately reflect the costs associated with the processing of fee-related services. In many fee areas, the City has been under-collecting its user fees. As a result, the City's General Fund has subsidized many services. For many service areas, fees have not been updated in the last 10 to 15 years. Since the last updates, the direct and indirect costs associated with service delivery have risen with no corresponding increase in fees. Furthermore increased requirements by the State have led to cost increases. To correct these deficiencies, the City desires to update its master fee schedule.

The objective of this study is to provide the City's management with the information required to make appropriate pricing decisions.

Policy Considerations

Economists and local government practitioners advocate the utilization of user fees by local governments to finance certain public services that primarily benefit the individual user. User charges apply to those individuals who voluntarily consume services or use public facilities. User fees are favored because they are means for additional revenues and can lead to efficient allocation of resources.

City policy may dictate, within reason, which costs should be recovered and to what degree through the collection of fees from service users. Most

jurisdictions desire to collect the full cost of staff labor that are associated with the administration and processing of development-related services that benefit individual applicants. In addition, most jurisdictions wish to recover overhead costs associated with development related activity as well. Overhead costs are necessary for the support and function of a city's operating departments. Without administrative support and supplies, the various operating departments could not function effectively for the individuals they serve. However, overhead costs are often not recovered due to a lack of overhead identification techniques.

Labor effort and costs associated with the provision of fee-related services will fluctuate over time. Because of these inherent cost changes, it is important for the City to implement a fee schedule that can be updated with relative ease to reflect these changes. This is a critical feature of any user fee schedule.

For this study, the City wishes to examine services provided by the General Fund development service departments, including services not currently generating fees. One purpose of the study is to find those fee areas that are listed on the current fee schedule where no service is provided and eliminate them. In addition, the study effort should determine new fee areas and implement new fees for the corresponding services. The recommended fee schedule generated by this study includes new fees, eliminates others and modifies certain categories of fees where it makes the most sense in terms of ease of staff processing and cost tracking.

Escalator Index

Flexibility and ease of use will assist the City in its efforts to ensure fees are based on current and reasonable costs to provide services to potential and existing applicants. For the fee schedules included in this report, the City of Modesto wishes to apply an annual adjustment factor to the fee schedules. We recommend the Employee Cost Index for State and Local Government Employees, Total Compensation as published by the Bureau of Labor Statistics. Each year, the City shall determine the percentage change in this index and apply the increase or decrease to the master fee schedule by act of City ordinance or resolution. Certain fees are exempt from an index adjustment, such as fees set by the State of California, and these fees are noted in the master fee schedule. Every five years the City should conduct a comprehensive cost of service analysis to ensure fees are set appropriately.

Approach

Two methods of analysis have been used in this engagement:

- *Case Study Method:* This approach estimates the direct and indirect labor and material costs associated with providing a unit of service (permit or application processing) to a single user. Costs are estimated based on interviews with agency staff regarding the time typically spent on specific tasks and review of available records. The case study method was employed for all fees except building fees.
- *Macro Cost vs. Revenue Method:* This “top-down” approach evaluates the appropriateness of current fees by comparing the total cost of a service category (e.g. Building inspections) against total revenues received. Costs are estimated by apportioning 100% of each staff member among the various service categories. This type of analysis tells decision makers whether a category of fees is creating a revenue surplus, deficit, or breaking even. This method was employed for Building Division fees.
- *Time and Materials:* Services for which the City staff time requirement varies dramatically are best recouped on a time and materials basis. We have recommended time and materials charges for select fees within both Planning and Engineering. We recommend the City adopt the following policy for services recouped on a time and materials basis:

Concurrent with submittal of an application, the project applicant shall pay deposit amounts (when specified) and enter into an agreement to fully reimburse the City for processing costs. The City shall not be required to perform any work on the application prior to receipt of the deposit and execution of the agreement. The agreement shall also include a provision for amendments to the agreement and scope of work to cover work that was unforeseen or substantially exceeded estimates.

Under all approaches, indirect costs are added to the direct costs of service to calculate the user fee. Indirect cost figures are obtained from the City’s cost allocation plan, which is prepared by an independent consultant.

Discussions with City staff indicate that the case study method of calculating fees is appropriate for most of the City’s user fees. We employed the macro cost vs. revenue method for building fees due to the complexity of the building fee schedule and a lack of time data. We present below our work plan based on both of these methods and the City’s objectives for the study.

Fee Study Work Plan

The study work plan was guided by the City’s objective of identifying the full cost of each service for which a user fee may be charged. The work plan consisted of a data collection task, the development of a fee model based on the study’s objectives and the data collected, benchmarking Modesto’s fees against comparable jurisdictions, and finally, the development of the recommended fee schedule for each department. This report is the final

product of the study and describes its process, analysis and recommendations.

Cost Identification

There are two distinct philosophies regarding the degree of cost recovery for service delivery. Some public officials argue that user fees should be based on the amount of service directly rendered for a specific service. They state that the cost of maintaining staffing and facilities to render those services upon demand should be recovered from an agency's general fund.

The counter argument is that maintaining an "administrative infrastructure" to provide services is as much a part of the government infrastructure for which new development may be charged, as are new streets, utilities, and other related infrastructure. In other words, fee-related services could not occur without a staffed and supplied organization that is capable of meeting the demands for services placed upon it by a particular individual or development activity. This infrastructure is required to sustain the permitting, application, inspecting and other services of the City. These costs are required for the provision of services and can be recoverable from applicants in the form of service fees.¹

Data Collection

This fee study identifies three cost layers that, when combined, constitute the fully burdened cost of a service. For the purpose of this study, the cost layers are defined as: direct labor, departmental indirect labor, and central overhead. These layers are defined as the following:

- *Direct Labor.* Staff hours spent directly on fee-related services. These hours are related to costs as a burdened salary rate. This rate includes the staff member's salary, plus benefits and taxes paid by the City.
- *Departmental Indirect Labor.* Staff hours spent on supervision and departmental administration activities. This cost layer consists primarily of secretarial staff, clerical staff, materials and supplies and portions of a department head.
- *Central Overhead.* These costs represent those departments whose primary function is to support other City departments. Central overhead figures were established by an independent cost plan consultant. Central overhead examples include:
 - City Management;
 - Treasury;

¹ Michael Bouse, "Establishing Building Permit Fees", November, 1998.

- City Attorney;
- Finance Department activities;
- Personnel Department; and
- Risk Management.

We interviewed all City departments that provide a user fee-related service. Each appropriate City staff member received a uniformly structured form to complete. Staff was instructed to complete each form by filling in direct and indirect labor time expended on fee-generating activities. Staff members were also asked to provide time spent on fee services that were not listed on the formal fee schedule.

After completion of these surveys, each Department or Division Director reviewed the responses, and confirmed and/or revised if necessary. These surveys and other working papers have been given to the custody of the City and document the time estimate data used in this analysis. In addition, we worked with the City staff in modifying many of the fee categories to accurately reflect the type of services provided by the service departments. In some instances, fee categories were collapsed into fewer sub-categories for ease of administration. In other instances fee categories were expanded to improve the equity of the charge.

Part of the data collection task included a thorough review of relevant City documentation, such as:

- City General Fund budget;
- Current City fee schedule;
- City consultant invoices;
- City correspondence related to fee services; and,
- Various City permit and application data.

The final data collection tool we provided to the City was a fee comparison matrix. This document compares the City's current and proposed fee schedule with fee schedules from cities located near the City of Modesto. The matrix is a useful resource tool to benchmark Modesto's current and recommended fees with similar jurisdictions. The comparison analysis is attached at the end of this report. The jurisdictions included in the fee matrix are:

- | | |
|---------------------|-------------------------|
| ♦ City of Fairfield | ♦ City of Ripon |
| ♦ City of Merced | ♦ City of Sacramento |
| ♦ County of Merced | ♦ County of San Joaquin |

- ◆ County of Stanislaus
- ◆ City of Stockton

- ◆ City of Tracy
- ◆ City of Turlock

COST OF SERVICE ANALYSIS – PLANNING

This section describes the analysis of the cost of providing current planning services to existing and potential applicants. The City's Planning Division provides these services at the request of property owners and developers seeking to build, or enhance and change the current use of their property.

Description of Services

The Division is responsible for administering the City's land use planning and entitlement system; managing and coordinating the General Plan, Specific Plans, Finance Plans and programs including Specific Plan finance plans. The Division also oversees California Environmental Quality Act (CEQA) review, and manages implementation through annexation, precise plans, zoning, use permits, variances, and subdivision maps. These latter current planning services are the primary focus of this analysis.

In addition, the Division has substantial responsibility for provision of information in response to the general public, the Commission and Board, and the Council. These activities are not related to specific development proposals.

Current Planning Services

Part of the division's services relate to the consideration of proposals by property owners and developers that would result in changes to existing land uses, often referred to as "current planning" services. The division provides certain current planning services including:

- Pre-application meetings between a potential project applicant and staff planner to evaluate consistency of the project with the General Plan and zoning ordinance, and to review relevant application procedures;
- Preliminary design review of a project; and,
- General assistance for potential applicants.
- Beginning with submittal of an application, the division charges for its services, and it can be reimbursed for those services up to their full reasonable costs.

Staffing

For the fiscal year 2002/03, the Planning Division consists of one (1) Planning Manager, two (2) Principal Planners, five (5) Senior, Associate, or Assistant Planners, four (4) Planning Technicians or Planning Assistants, one (1) Office Supervisor and three (3) clerical positions. In addition, the Division is supervised by the Community Development Director. It is important to note that staff of other development services departments and divisions may expend labor hours on Planning Division activities. Where appropriate, this cost recovery study allocates their appropriate time to Planning Division services.

Analysis and Recommendations

This study identified and assigned costs to over 40 existing, new or modified planning fee services. Most of these fees are insufficient to cover the actual cost incurred in service provision. As discussed above, the division dedicates much of its time to two general areas: 1, pre-applicant time spent on the front-end of potential development activity and, 2, reimbursable current planning services time, specifically the processing of development permits and applications. This time allocation is typical for most local jurisdiction planning divisions. Based on our experience with cost of service studies in other jurisdictions throughout California, it is not unusual for planning divisions to implement a significant increase in many fee-generating service fees to ensure adequate and reasonable cost recovery.

With a few exceptions we recommend that the goal of Planning fees be set at 100% cost recovery levels. The exception to this policy is the Appeals fee, which we recommend be limited to \$200. Cities typically keep appeal fees well below actual cost to ensure this process is not limited by economic reasons. While most existing fees are set below actual costs, we did discover that the Initial Study fee is set above actual cost. We recommend this fee be reduced to equal the actual cost of providing the service.

It should be noted that even with implementation of our fee recommendations the cost recovery rate for current planning as a whole will likely be less than 100% cost recovery due to non-fee related activities. The department devotes significant time to two non-fee activities: pre-application time with developers and activities directed by Council.

Newly Proposed Fees:

Based on review of the Division's internal processes and fees charged by similar jurisdictions, the City proposes institution of the following new fees:

1. *Precise Plan Amendment* – Minor alterations to an approved Precise Plan.
2. *Concept Review* – Less thorough than a Site Plan Review, a Concept Review verifies that material is consistent with Planning and Zoning standards. One concept review for each property will be provided free of charge. A concept review fee will be assessed if a second review is requested. Third concept reviews will not be accommodated – rather, the developer will need to apply for a site plan review.
3. *Special Agreements* – This fee would recoup attorney time preparing special agreements for land that is dedicated, but needs special terms.
4. *General Plan Maintenance Fee* – This fee is applied to building permits and is designed to fund 40% of the annual cost of maintaining the City's Long-range plans (General Plan, Housing Element, etc.). New construction contributes to the need for periodic updates of these plans. Institution of this fee would add approximately \$1 to a patio cover permit, \$53 to an average single-family home permit and \$263 to a \$1 million valuation office-building permit. Calculations are provided below:

**General Plan Maintenance
Fee Calculations**

Amortized Annual Cost of Long Range Plans		Average Annual Building Construction Valuation:	
General Plan and MEIR	\$97,101	(Based on latest four years of construction valuation data)	
Master EIR Update	\$50,832	1999/00 actual	\$366,000,000
Housing Element	\$54,386	2000/01 actual	\$477,000,000
Urban Growth Review	\$46,930	2001/02 estimate	\$325,000,000
Annual Cost	\$249,249	2002/03 budget	\$350,000,000
Amount to Fund via Fee (40%):	\$99,700	4 year average:	\$379,500,000
		Fee per \$1,000 of Building Construction Valuation:	
		(\$99,700/\$379,500,000) x \$1,000: \$0.26	

Sample General Plan Maintenance Fee Calculations:

Proj. Type	Valuation	Fee
Patio Cover:	\$4,000	\$1
SFR	\$200,000	\$53
Office Building	\$1,000,000	\$263

Table I. City of Modesto, Planning Division Fee Summary

<i>Service/Application</i>	Average Total Cost	Current Fee	Fee at Full Cost Recovery
Planning Fees - Current			
P-D Zoning	\$5,750	\$1,105	\$5,750
Amend P-D Zone Pursuant to Sec. 10-2.1704 (b)	\$5,750	\$1,105	\$5,750
Amend P-D Zone Pursuant to Sec. 10-2.1704 (a)	\$4,930	\$795	\$4,930
Annexation	\$9,239	\$540	\$5,000 dep., t&m
Rezoning	\$4,688	\$1,000	\$4,688
Plot Plan Review - Satellite antenna , SFD	\$3,716	\$135	\$3,716
Plot Plan Review - 2nd Story Add'n, SFD	\$240	\$230	\$240
Plot Plan Review - All other	\$4,157	\$550	\$4,157
Conditional Use Permit - SFR	\$3,983	\$205	\$3,983
Conditional Use Permit - All others	\$4,853	\$795	\$4,853
Variance - SFR in R-A, R-1, R-2 or R-3	\$3,666	\$205	\$3,666
Variance - All others	\$3,983	\$845	\$3,983
Admin Approval of Revised Plans	\$520	20% of orig. fee	\$520
Letter of Verification - Zoning	\$32	\$30	\$32
Precise Plan	\$5,673	\$1,590	\$5,673
Tentative Subdivision Map	\$5,056	\$730	\$5,056
Tentative Parcel Map	\$4,140	\$660	\$4,140
Reversion of Acreage	\$3,716	\$555	\$3,716
Parcel Map Waiver	\$3,716	\$555	\$3,716
Lot Line Adj.	\$247	\$140	\$247
Time Extension	\$3,840	\$125	\$3,840
Appeal of PC or BZA decisions	\$1,035	\$100	\$200
Appeal of staff decisions	\$3,743	\$100	\$200
Abandonment:			
-right of way	\$6,773	\$865	\$6,773
-walkway	\$4,263	\$145	\$4,263
Planning Fees - Current & Advance			
Development Agreement	t&m	\$940	\$5,000 dep., t&m
Environmental Assessment:			
Initial Study - City Processing	\$407	\$485	\$407
EIR - City Processing Costs	\$33,937	t&m	30% dep., t&m
Mitigated Neg. Dec. - City Proc. Costs	\$17,407	t&m	\$5,000 dep., t&m
Staff Evaluation of Special Studies	\$3,824	\$475	\$3,000 dep., t&m
Planning Fees - Advance			
General Plan Amendment	\$8,787	\$3,000 dep., t&m	\$5,000 dep., t&m
Specific Plan prep/review	\$30,992	-	\$10,000 dep., t&m
Specific Plan Amendment	\$6,179	\$1,105	\$3,000 dep., t&m

Table I. City of Modesto, Planning Division Fee Summary (continued)

<i>Service/Application</i>	Total Cost	Current Fee	Proposed Fee
Potential New Fees			
Precise Plan Amendment	\$5,673	\$0	\$5,000 dep., t&m
Concept Review ¹	\$871	\$0	\$871
Special Agreements	t&m	\$0	\$500 dep., t&m
General Plan Maintenance Fee ²	\$0.66/ \$1k valuation	\$0	\$0.26/ \$1k valuation

MULTIPLE APPLICATIONS - When multiple Planning Dept. permits are required for a single project review (i.e. rezoning and tentative subdivision map) involving concurrent processing, the total fee shall be the highest fee plus 1/2 fee for the remaining appl

APPLICATION WITHDRAWAL - If a development application is withdrawn prior to Development Review Board consideration, 50% of the application fee shall be refunded.

- 1) no charge for the first concept review, full charge for the second. Third concept reviews are not provided - applicant must request site plan review.
- 2) see page 11 for full description of fee.

Sources: City of Modesto; MuniFinancial.

COST OF SERVICE ANALYSIS – ENGINEERING

This section describes the analysis of the City of Modesto's cost of providing engineering services to existing and potential applicants. The Engineering and Transportation Department provides these services to property owners and developers providing public improvements as part of their development projects. The Construction Administration program (4212) recovers the cost of inspection services on a time and materials basis for subdivisions – accordingly, this program has not been analyzed. The Development Review and Permits program (4213) and the Development Services program (4214) perform most of the Department's developer fee-related services and are the focus of this analysis. The Capital Planning Program (5015) performs assured water supply and water and wastewater capacity analysis.

Description of Services

The Development Review and Permit's and the Development Services programs provide a variety of services related to land use and improvements within the City (this report does not analyze the functions and costs associated with City Capital Improvement Projects.) These programs are responsible for the review and processing of plans, permits and applications for land development. These services are the primary subject of this analysis. The department provides the following engineering services:

- Engineering review of land development applications;
- Map checks of subdivision and parcel maps for compliance with state and local ordinances;
- Plan checks of maps, grading and improvements, including preparation of improvement agreements and bonding requirements;
- Encroachment permits (review of plans and inspection of incursions into public rights-of-way);
- Site engineering review for new buildings and additions and remodels and;
- Processing of certificates of compliance.

Staffing

For the fiscal year 2002/03, the Development Review and Permit's and the Development Services programs consist of one (1) Senior Civil Engineer, one (1) Associate Civil Engineer (2) Assistant Civil Engineers, one (1) Administrative Technician, one (1) Administrative Clerk II, and two (2) temporary employees. The Capital Planning Division consists of one (1) Senior Civil Engineer, one (1) Associate Engineer, and one (1) Assistant Civil Engineer. In addition, these divisions are supervised by the Deputy Director of Engineering and Transportation.

Analysis and Recommendations

Our analysis indicates that most Engineering fees are set significantly below actual cost – some fees only recovering 13% of actual costs incurred. In some instances, however, engineering fees do exceed actual cost. *We have recommended a combination of fee increases and decreases to arrive at an approximate 100% cost recovery status.*

We recommend restructuring Improvement Plan Checking fees from a flat plus per lot format to a percentage of construction cost format. The percentage of construction cost format is used by most California engineering operations. Construction costs should be calculated as per the most recent edition of the Engineering News Record.

The Encroachment Permit analysis indicates that roughly the same amount of time is required to review each encroachment permit category. Consequently, we have recommended some fee increases and some fee reductions. Inspections provided by Construction Administration should be charged on top of the fees identified in this analysis.

Newly Proposed Fees:

Based on review of the services provided and fees charged by similar jurisdictions, the City proposes institution of the following new fees:

1. *Legal Description Check* – Legal description check by the Land Surveyor.
2. *Reciprocal Access Agreement* – These agreements are negotiated by the City's legal staff.
3. *Water Availability Analysis* – This type of analysis satisfies the requirements of SB 610 and/or SB 221.
4. *Water and Wastewater Capacity Analysis* - These analysis determine the available capacity of the water and wastewater system to serve new development.

Table II presents the total cost of each service area, the current fee charged and the proposed fees.

Table II. City of Modesto, Engineering Fee Summary

Service/Application	Average Total Cost	Current Fee	Proposed Fee
Reversion to acreage checking fee	\$671	\$190.50	\$671
Final parcel map checking fee	\$1,178	\$385.00	\$1,178
Final subdivision map checking fee:			
10 lots	\$1,744	\$385.00	\$1,744
150 lots	\$4,100	\$1,484.00	\$1,744 + \$16.83/lot above 10
Improvement plan checking:			
\$25k cost estimate	\$1,955	\$240.00	3% cost est.
\$100k cost estimate	\$2,645	\$335 plus	2.6% cost est.
\$250k cost estimate	\$4,560	\$335 plus	1.8% cost est.
Property owners' association doc checking fee	\$192	\$185.00	\$192
Certificate of Compliance	\$1,190	\$137.00	\$500
Right of Way Abandonment	\$1,676	\$190.00	\$1,676
Street Trees, each - furnished & installed by City	\$153	\$66.00	\$153
Monument Deposit	n/a	\$40.00/ monument	\$40.00/ monument
Street Signs, each intersection, installed by City	\$230	\$175.00	\$230
Encroachment permits: ¹			
Curbs and curb cuts (300 lf)	\$170	\$82.00/lot	\$170
Sidewalks (300 lf)	\$170	\$38.50/lot	\$170
Sewer service from lot to main ²	\$208	\$48.50	\$208
Sewer main (50 lf) ^{2,3}	\$283	\$72.00	\$283
Storm Drain (through curb)	\$133	\$32.50	\$133
Utilities- major const. ^{2,4}	\$57	\$68.00	\$57
Utilities - service & repair ²	\$208	\$68.00	\$208
Temp Street Closures	\$208	\$109.50	\$208
Street Lights ²	\$208	\$72.50	\$208
Rock Wells or Storm Drain Connectors ²	\$208	\$72.50	\$208
Street Construction (300 lf) ⁴	\$57	\$232.50	\$57
Misc Improvements (300 lf) ^{2,4}	\$57	\$201.00	\$57
Install refractor steel pole	\$133	\$55.00	\$133
Added refractor steel pole	\$133	\$13.50	\$133
Install mast arm wood pole	\$133	\$125.00	\$133
Added mast arm wood pole	\$133	\$102.50	\$133
Install luminaire, standard pole	\$208	\$20.50	\$208
Soil core sample	\$208	\$85.00	\$208
Rough Grading Plan Check	n/a	UBC	UBC

Table II. City of Modesto, Engineering Fee Summary (continued)

<i>Service/Application</i>	Total Cost	Current Fee	Proposed Fee
Potential Fees found in other Cities:			
Legal Description Check	\$77	\$0.00	\$77
Reciprocal access agreements (parking, etc.)	\$268	\$0.00	\$268
Water Availability Analysis	t&m	\$0.00	\$5,000 dep., t&m
Water and Wastewater Capacity Analysis	t&m	\$0.00	\$3,000 dep., t&m

- (1) Additional fees charged if City employees perform paving or staking services.
- (2) A trench restoration fee of \$2.50/ s.f. is charged in addition. The trench restoration fee is an impact fee, rather than a user fee, and therefore is excluded from this study.
- (3) Applicant shall pay an additional \$3.75/ lf for small laterals designed and drawn by the City.
- (4) These fees DO NOT include construction inspection time, which will be charged on a time and materials basis.

Sources: City of Modesto; MuniFinancial.

COST OF SERVICE ANALYSIS – FIRE

The primary responsibility of the Fire Department is to provide protection from fire and other life-threatening occurrences to city residents. In addition to fire suppression activities, the Department also provides fire protection services and fire investigation. While the Fire Department is primarily funded through general taxation, there are a number of service areas where user fee charges are appropriate. This analysis focuses on those user fee services that are initiated as a result of new development.

Description of Services

The Fire Prevention Bureau reviews all new construction plans for compliance with the Fire Code. The Bureau is also responsible for community fire education, engineering, enforcement and investigation.

Recent staff turnover and vacancies have caused the Bureau to prioritize the services it provides to the public. They have focused on providing thorough reviews of new construction plans and thorough inspections and testing of all new construction and fire protection devices. Less emphasis has been placed on routine inspections of existing businesses.

Staffing

For the fiscal year 2002/03, the Fire Prevention Bureau consists of one (1) Fire Marshal, one (1) Deputy Fire Marshal, two (2) Fire Investigators, three (3) Fire Prevention Technician II's, one (1) Administrative Clerk II and one (1) Part Time Administrative Office Assistant II. In addition, the Division is supervised by the Fire Chief.

Analysis and Recommendations

This study analyzed five Fire development-related fees and determined that all five are set below actual cost. In addition, this study recommends the institution of eight new development-related fees. *We recommend that all Fire development-related fees be adjusted to 100% cost recovery levels.*

Newly Proposed Fees:

Based on discussion with Fire Prevention Bureau staff, we propose institution of the following new Fire Prevention fees:

1. *Fire Alarm System Plan Check* – This is a fee for the review of a new fire alarm system.
2. *Fire Alarm System Test and Inspection* – This is a fee for a test and inspection of a new fire alarm system.
3. *Site Plan Review* – This fee is to recover the Fire Department's cost of reviewing site plans.
4. *Re-inspection* – When an initial inspection is failed, the occupant is informed as to what conditions must be corrected. If the follow-up inspection is also failed, we recommend the occupant be charged for the third and any subsequent inspections required.
5. *After Hours Inspection* – The Bureau's labor MOU states that employees working after normal business hours must be paid for a minimum of 3 hours at overtime rates.
6. *Changed Plans Check* – when plans are submitted either incomplete or with significant changes from a previous version.
7. *Alternate Materials/Methods Evaluation* – when plans are submitted outside of Code requirements, the Deputy Fire Marshall researches for adequacy or sends to outside Fire Prevention Engineer for review.
8. *Engineered/Pre-engineered Fire Protection System* – review of systems for adherence to Fire Code.
9. *Special Project Plan Review* – this fee would recover fire life safety plan review costs that are not captured in the building permit process.

Table III presents the total cost of each service area, the current fee charged and the proposed fees.

Table III. City of Modesto, Fire Fee Summary

<i>Service</i>	Average Total Cost	Current Fee	Proposed Fee
Fire/Life Safety Review:			
New Shell Building (per 1,000 sq ft)	\$49	\$28	\$49
Complete Building (per 1,000 sq ft)	\$62	\$35	\$62
Tenant Improvement (per 1,000 sq ft)	\$39	\$28	\$39
Fire Sprinkler System (per 1,000 sq ft)	\$17	\$13	\$17
Fire Alarm Systems (per 1,000 sq ft)	\$17	\$0	\$17
Fire Sprinkler System Test & Inspection (per system riser)	\$389	\$137	\$389
Potential New Fees			
Special Projects Plan Review	t&m		t&m
Fire Alarm System Test & Inspection	\$79	\$0	\$79
Site Plan Review	\$79	\$0	\$79
Re-Inspection	\$59	\$0	\$59
After Hours Inspection	\$176	\$0	\$176
Changed Plans Check	\$117	\$0	\$117
Alternate Materials/Methods Evaluation	\$237	\$0	\$237
Engineered/Pre-engineered Fire Prot System	\$167	\$0	\$167

Sources: City of Modesto; MuniFinancial.

COST OF SERVICE ANALYSIS – BUILDING

This section describes the analysis of the City of Modesto's cost of providing building plan check, permit and inspection services to existing and potential applicants. The City's Building and Development Services Division provides these services at the request of property owners and developers seeking to build, or enhance and change the current use of their property.

Description of Services

The City of Modesto Building and Development Services Division provides a variety of services related to building plan review and inspection, electrical, plumbing, and mechanical permit fees within the City. These services are the primary subject of this analysis.

Typically, building permit fees are based on the valuation (value) of the proposed construction project. Building permit fees are used to offset the costs of inspecting and documenting building construction. Plan review fees are usually a percentage of the building permit fee and are usually established by City Council resolution. The current City fee schedule uses a variety of fee setting tables depending upon the characteristics of the development project.

Building fees are calculated based on a modified version of the Uniform Building Code (UBC), which is based on a percentage of the valuation of construction. Plan review fees are generally 65% of the building permit fee; however, tract housing plans are only charged an amount equal to 10% of the building permit fee in recognition of the redundant nature of these checks.

Staffing

For the fiscal year 2002/03, the Building and Development Services Division consists of twenty one (21) professional staff and six (6) clerical staff members. The Division utilizes contract plan check staff when demand exceeds the supply of full-time staff. The Division is supervised by the Community and Economic Development Director.

It is important to note that support from other departments and divisions has been factored into the Building cost analysis.

Analysis and Recommendations

The purpose for this analysis is twofold. First, it justifies fees for the purposes of reconciling to City Council that Building fees are directly proportionate to the cost of providing services. Second, it justifies the fees for the purpose of showing compliance with the State of California Attorney General's Opinion No. 92-506. In this opinion the Attorney General determined that municipalities may not rely solely on the UBC fee schedules but must demonstrate that building fees do not exceed the reasonable cost of providing service.

This analysis has been prepared in compliance with the total cost-total revenue methodology recommended by the California Building Officials (CALBO). CALBO is a statewide non-profit association of building officials organized to provide mutual benefit services for its membership, government agencies, and the citizens of the State of California.

This analysis is based on projections of costs for 2002/03 and actual median revenue for fiscal years 2000 and 2001. Actual revenues are used due to the inherent difficulty of projecting building fee revenue. Total costs used in this methodology include both direct budgeted Building Division costs and overhead costs as calculated by the City's independent cost plan consultants. These costs are assigned to service categories based staff distributions found in the City's Insurance Services Office (ISO) report. The ISO uses this report to evaluate the adequacy of city code inspections for insurance adjustment purposes.

Applicants occasionally request that a particular application be processed in an expedited timeframe. The Building and Development Services Division can accommodate such requests by having these applications processed by contract plan checkers. The contract plan checkers send the processed plans to the City for final approval. City staff typically review the plans several times before a final version is approved. *We recommend an Expedited Applications fee for this process to recover actual contract cost plus a 30% markup for staff review.*

Total revenues include all fees collected for building service provision. These revenues include, but are not limited to, fees for plan review, inspection, re-inspection and Title 24 Energy fees.

Newly Proposed Fees:

1. *No Build Agreement* - This fee would recoup attorney time preparing agreements whereby a property owner agrees not to build on his/her land. This fee shall be recovered on a time and materials basis.
2. *General Plan Maintenance Fee* - See Planning section for description.

Based on our analysis of the Building and Development Services Division, inspection services generate a revenue surplus of \$24,829 while plan checking services incur a deficit of \$220,043 for a net deficit of \$195,214. The Plan Checking deficit is likely caused by the extremely low repeat-unit plan check fee, which is 10% of the model unit fee. Neighboring jurisdictions charge between 40 to 100% for this same service. We recommend the repeat-unit plan check fee be increased to 25% of the model unit fee.

Table IV presents our macro cost/revenue analysis for the Building and Development Services Division's fee related services.

Table IV. City of Modesto, Building Fee Summary

Indirect Cost Analysis					
General Fund Overhead:			\$426,330		
Building & Development Admin Staff:					
Chief Building Official		\$102,742			
Deputy Chief Building Official		\$95,853			
Secretary (1)		\$56,500			
Administrative Technician		\$38,173			
Administrative Clerk II (4)		\$164,222	\$457,490		
Indirect Expenses:					
Support from Engineering		\$30,184			
Support from Planning		\$39,543			
Internal Service Charges		\$252,535			
Professional & Contractual Services		\$255,342			
Materials and Supplies		\$47,291			
Other		\$51,572	\$678,467		
Total Indirect Cost			\$1,560,287		
Indirect Cost per insp/plan check staff			\$82,120		

Cost of Inspection Services					
Inspection Staff:	Sal & Ben.	Indirect Cost	Full Cost	Billable	Full Cost
				Hours	Hourly Rate
Supervising Building Inspector	\$89,797	\$82,120	\$171,917	1,600	\$107
Senior Building Inspector (3)	\$222,252	\$246,361	\$468,613	4,800	\$98
Building Inspector II (10)	\$637,237	\$821,204	\$1,458,441	16,000	\$91
Total inspection Staff Salary & Benefits	\$949,286	\$1,149,685	\$2,098,971	22,400	

Inspection Services Cost / Revenue Analysis						
Inspection Category:	Permit Distribution ²		Inspection Cost Distribution		Avg. Rev. 1999-2001 ³	Subsidy/ <Surplus>
	#	%	%	\$		
	Structural ¹	3,419	78.24%	78.24%			$1,642,193	$1,682,311	-$40,118
Electrical	420	9.61%	9.61%	\$201,732	\$177,991	\$23,741
Plumbing	225	5.15%	5.15%	\$108,071	\$159,472	-\$51,401
Mechanical	306	7.00%	7.00%	\$146,976	\$104,026	\$42,950
Total	4,370	100.00%	100.00%	\$2,098,971	\$2,123,800	-\$24,829
1) Includes mobile home inspections.						
2) Based on ISO report figures.						
3) "All Inclusive" permit revenue is spread proportionately among the inspection categories.						

Cost of Plan Checking Services					
Plan Checking Staff:	Sal & Ben.	Indirect Cost	Full Cost	Billable	Full Cost
				Hours	Hourly Rate
Senior Civil Engineer	\$99,306	\$82,120	\$181,426	1,700	\$107
Associate Civil Engineer (2)	\$163,760	\$164,241	\$328,001	3,400	\$96
Plan Review Engineer (1)	\$73,982	\$82,120	\$156,102	1,700	\$92
	\$337,048	\$328,482	\$665,530	6,800	

Plan Checking Services Cost / Revenue Analysis				
Plan Checking Services	Full Cost	Avg. Rev. 1999-2001	Subsidy/ <Surplus>	
				\$665,530	$445,487	$220,043

COST OF SERVICE ANALYSIS – LANDSCAPE

This section describes the analysis of the City of Modesto's cost of providing landscape review and inspection services for which a fee may be charged.

Description of Services

The Parks Planning and Development Services Division is responsible for providing neighborhood, community, and regional open space that meets the goals of the Modesto Urban Area General Plan. This Division is responsible for providing landscape review and inspection services for new development. As recent as fiscal year 2001 this service had been provided through contract landscape review consultants under the supervision of the Building Division. In 2002, this function was brought in-house under the Parks, Recreation and Neighborhoods Department.

Staffing

For the fiscal year 2002/2003, the Parks Planning and Development Services Division consists of one (1) Parks Planning and Development Manager and three (3) Project Coordinators.

Analysis and Recommendations

We recommend landscape review and inspection services be adjusted to 100% full cost recovery levels.

Table V presents the total cost of each service area, the current fee charged and the proposed fees.

Table V. City of Modesto, Parks Planning & Development Fee Summary

<i>Service</i>	Average Total Cost	Current Fee	Proposed Fee
Landscape Plan Checks:			
up to 5000 sq ft.	\$193	\$60	\$193
5001 to 10000 sq ft	\$298	\$78	\$298
10001 to 15000 sq ft	\$351	\$98	\$351
15001 to 25000 sq ft	\$456	\$115	\$456
25001 to 50000 sq ft	\$561	\$115	\$561
50001 + sq ft	\$824	\$152	\$824
Landscape Inspections:			
up to 5000 sq ft.	\$141	\$82	\$141
5001 to 10000 sq ft	\$167	\$82	\$167
10001 to 15000 sq ft	\$246	\$82	\$246
15001 to 25000 sq ft	\$351	\$98	\$351
25001 to 50000 sq ft	\$456	\$98	\$456
50001 + sq ft	\$561	\$120	\$561
Re-checks:			
up to 5000 sq ft.	\$141	\$22	\$141
5001 to 10000 sq ft	\$141	\$22	\$141
10001 to 15000 sq ft	\$193	\$22	\$193
15001 to 25000 sq ft	\$246	\$22	\$246
25001 to 50000 sq ft	\$298	\$22	\$298
50001 + sq ft	\$351	\$22	\$351
Re-inspections:			
up to 5000 sq ft.	\$141	\$44	\$141
5001 to 10000 sq ft	\$141	\$44	\$141
10001 to 15000 sq ft	\$167	\$44	\$167
15001 to 25000 sq ft	\$193	\$44	\$193
25001 to 50000 sq ft	\$193	\$44	\$193
50001 + sq ft	\$246	\$44	\$246

Sources: City of Modesto; MuniFinancial.

APPENDIX A: HOURLY RATE CALCULATIONS

This section presents the fully burdened hourly rates of City staff involved with development user fee-related services.

Table VI. Planning Division Hourly Rate Calculations

Central Overhead Markup:

Central Overhead:	\$190,154 (based on plan dated 5/06/2002)
Support from Engineering	\$71,407
Total Overhead	\$261,561

Divide by Annual Salary (see below) \$958,506

Overhead Markup: 27.29%

Admin & Materials Markup:

Supervision & Admin (see below)	\$255,073
Internal Service Charges	43,560
Prof. & Contractual	117,897
Materials & Supplies	19,645
Other	285
Subtotal Admin & Materials	\$436,460

Divide by Direct Labor + Overhead (see below) \$1,220,067

Admin & Materials Markup: 35.77%

Labor Analysis:

Position:	Annual Salary & Benefits	Central OH Markup	Direct Labor	Supv & Admin.	Dept/ Indirect Markup	Fully Burdened Direct Labor	Direct Hours	Fully Burdened Hourly Labor Rates
	a	b 27.29%	c (a+b)	d	e 35.77%	f (c+e)	g	h (f / g)
Planning Manager	102,741	28,036	130,777	65,389	46,784	177,561	1,800	\$99
Principal Planner (2)	175,183	47,805	222,988		79,770	302,758	3,600	\$84
Senior/Assoc/Asst Planner (5)	327,417	89,347	416,764		149,091	565,855	9,000	\$63
Plan Tech II /Plan Asst (4)	204,145	55,708	259,853		92,958	352,811	7,200	\$49
Office Supervisor	57,247	15,622	72,869	72,869	26,088	98,937	1,800	\$55
Secretary/Admin Clerk (2.5)	91,773	25,043	116,816	116,816	41,789	158,605	4,500	\$35
Total	958,506	261,561	1,220,067	255,073	436,460	1,656,527	27,900	

Sources: City of Modesto; MuniFinancial.

Table VII. Engineering Hourly Rate Calculations

Central Overhead Markup:

Central Overhead: 102,027
 Total Overhead \$102,027

Divide by Annual Salary (see below) 422,518

Overhead Markup: 24.15%

Admin & Materials Markup:

Supervision & Admin (see below) 191,659
 Internal Service Charges 43,560
 Materials & Supplies 19,645
 Other 285
 Subtotal Admin & Materials 255,149

Divide by Direct Labor + Overhead (see below) 524,545

Admin & Materials Markup: 48.64%

Labor Analysis:

Position:	Annual Salary	Central OH Markup 24.15%	Direct Labor	Supv & Admin.	Dept/Indirect Markup 48.64%	Fully Burdened Direct Labor	Direct Hours	Fully Burdened Hourly Labor Rates
	a	b	c (a+b)	d	e	f (c+e)	g	h (f/g)
Sr. Civil Engineer (1), [#4214]	103,075	24,890	127,965	63,982	62,245	190,210	1,800	\$106
Sr. Civil Eng. Asst (1), [#4214]	67,134	16,211	83,345		40,541	123,886	1,800	\$69
Asst Civil Engineer (2), [#4213]	149,466	36,092	185,558		90,259	275,817	3,600	\$77
Administrative Tech (1), [#4214]	48,823	11,789	60,612	60,612	29,483	90,096	1,800	\$50
Admin Clerk II (1), [#4214]	35,520	8,577	44,097	44,097	21,450	65,547	1,800	\$36
Hourly-Temp (2), [#4213 & #4214]	18,500	4,467	22,967	22,967	11,172	34,139	1,850	\$18
Total	422,518	102,027	524,545	191,659	255,149	779,694	12,650	

Sources: City of Modesto; MuniFinancial.

Table VIII. Fire Prevention Hourly Rate Calculations

Central Overhead Markup:

Central Overhead:	29,250
Fire Support Services ¹	96,340
Total Overhead	125,590

Divide by Annual Salary (see below) 536,525

Overhead Markup: 23.41%

Admin & Materials Markup:

Supervision & Admin (see below)	138,949
Internal Service Charges	23,945
Materials and Supplies	16,980
Other	755
Subtotal Admin & Materials	180,629

Divide by Direct Labor + Overhead (see below) 662,115

Admin & Materials Markup: 27.28%

Labor Analysis:

Position:	Annual Salary	Central OH Markup 23.41%	Direct Labor	Supv & Admin	Dept/ Indirect Markup 27.28%	Fully Burdened Direct Labor	Direct Hours	Fully Burdened Hourly Labor Rates
	a	b	c (a+b)	d	e	f (c+e)	g	h (f / g)
Fire Marshall	72,017	16,858	88,875	88,875	24,246	113,120	1,800	\$63
Deputy Fire Marshall (.50)	33,553	7,854	41,407		11,296	52,703	900	\$59
Fire Captain (2)	173,979	40,725	214,704		58,572	273,276	3,600	\$76
Fire Prevention Tech II (4)	216,400	50,655	267,055		72,854	339,909	7,200	\$47
Admin. Clerk II	40,576	9,498	50,074	50,074	13,660	63,735	1,800	\$35
Total	536,525	125,590	662,115	138,949	180,629	842,743	15,300	

¹ Calculated by multiplying the Fire Support Services 2002/03 non-capital budget (\$1,605,660) by the Fire Prevention Bureau's ratio of Fire employees (9 employees / 151 non support employees = 6%).

Sources: City of Modesto; MuniFinancial.

Table IX. Parks Planning and Development Services Hourly Rate Calculations

Central Overhead Markup:

Central Overhead: \$53,638 (based on plan dated 5/06/2002)

Divide by Annual Salary (see below) 270,383

Overhead Markup: 19.84%

Admin & Materials Markup:

Supervision & Admin (see below) 48,622

Misc Expenses 32,669

Subtotal Admin & Materials 81,291

Divide by Direct Labor + Overhead (see below) 324,021

Admin & Materials Markup: 25.09%

Labor Analysis:

	Annual Salary	Central OH Markup 19.84%	Direct Labor	Supv & Admin.	Dept/ Indirect Markup 25.09%	Fully Burdened Direct Labor	Direct Hours	Fully Burdened Hourly Labor Rates
Position:	a	b	c (a+b)	d	e	f (c+e)	g	h (f / g)
PP&D Manager	81,146	16,098	97,244	48,622	24,397	121,640	1,800	\$68
Project Coordinator (3)	189,237	37,540	226,777		56,894	283,672	5,400	\$53
Account Clerk (not in this budget unit)								\$35
Total	270,383	53,638	324,021	48,622	81,291	405,312	7,200	

Sources: City of Modesto; MuniFinancial.

Table X. Traffic Engineering Hourly Rate Calculations

Central Overhead Markup:

Central Overhead: 223,410
 Total Overhead \$223,410

Divide by Annual Salary (see below) 660,609

Overhead Markup: 33.82%

Admin & Materials Markup:

Supervision & Admin (see below) 50,514
 Internal Service Charges 255,245
 Materials & Supplies 69,328
 Other 1,242
 Subtotal Admin & Materials 376,329

Divide by Direct Labor + Overhead (see below) 884,019

Admin & Materials Markup: 42.57%

Labor Analysis:

Position:	Annual Salary	Central OH Markup	Direct Labor	Supv & Admin.	Dept/ Indirect Markup	Fully Burdened Direct Labor	Direct Hours	Fully Burdened Hourly Labor Rates
	a	b	c	d	e	f	g	h
		33.82%	(a+b)		42.57%	(c+e)		(f / g)
Transportation Planner	82,029	27,741	109,770		46,729	156,500	1,800	\$87
Secretary	37,748	12,766	50,514	50,514	21,504	72,018	1,800	\$40
All other Staff	540,832	182,903	723,735		308,096	1,031,830	12,600	\$82
Total	660,609	223,410	884,019	50,514	376,329	1,260,348	16,200	

Sources: City of Modesto; MuniFinancial.

APPENDIX B: COMPARISON MATRIX

This section compares Modesto's development user fees to several jurisdictions. These jurisdictions were selected based on their proximity to Modesto and similarity in development demographics.

The jurisdictions included in the comparison matrix are:

- ♦ City of Fairfield
- ♦ City of Merced
- ♦ County of Merced
- ♦ City of Sacramento
- ♦ County of San Joaquin
- ♦ County of Stanislaus
- ♦ City of Stockton
- ♦ City of Tracy
- ♦ City of Turlock

APPENDIX C: BUILDING FEE ADJUSTMENTS

The following fee schedule, created by the Building and Development Services Division, implements our global 10% fee increase recommendation for building fees.

“ATTACHMENT B”

**DEVELOPMENT USER
FEE SCHEDULE**

DEVELOPMENT USER FEE SCHEDULE

PLANNING FEES
FULL COST RECOVERY 1

ENGINEERING FEES
FULL COST RECOVERY 2

FIRE PREVENTION FEES
FULL COST RECOVERY 3

PARKS & RECREATION LANDSCAPE REVIEW FEES
FULL COST RECOVERY 4

PLANNING & ENGINEERING FEES
TIME & MATERIAL BASIS 5

BUILDING PERMIT FEE SCHEDULE 6-10

PLANNING FEES
PERCENTAGE OF FULL COST RECOVERY 11

PLANNING FEES
NOT ADJUSTED ANNUALLY 12

PLANNING FEES FULL COST RECOVERY

Adjusted Each Year By Employment Cost Index-Compensation Costs
State and Local Government Employees

Service	Current Fee	Total Cost	Proposed Fee
Planning Fees- Current³			
Plot Plan Review-2 nd story Add'n SFD	\$230	\$240	\$240
Letter of Verification- Zoning	\$30	\$32	\$32
Lot Line Adjustment	\$140	\$247	\$247
Administrative Approval of Revised Plan	20% of App Fee	\$350	\$350
P-D Zoning	\$1,105	\$5,750	\$5,750
Amend P-D Zone Pursuant to Sec. 10-2.17	\$1,105	\$5,750	\$5,750
Amend P-D Zone Pursuant to Sec. 10.2.17	\$795	\$4,930	\$4,930
Annexation ¹	\$540	\$9,239	\$9,239
Plot Plan Review – All other	\$550	\$4,157	\$4,157
Conditional Use Permit/ Final Dev. Plan (All Others)	\$795	\$4,853	\$4,853
Variance-All others	\$845	\$3,983	\$3,983
Precise Plan	\$1,590	\$5,673	\$5,673
Tentative Subdivision Map	\$730	\$5,056	\$5,056
Tentative Parcel Map	\$660	\$4,140	\$4,140
Revision of Acreage	\$555	\$3,716	\$3,716
Parcel Map Waiver	\$555	\$3,716	\$3,716
Time Extension	\$125	\$3,840	\$3,840
Abandonment			
-right of way	\$865	\$6,773	\$6,773
-walkway	\$145	\$4,263	\$4,263
Planning Fees-Current & Advance³			
Initial Study ²	\$485	\$407	\$407
Planning Fees – Advance³			
Specific Plan Amendment	\$1,105	\$6,179	\$6,179
Proposed New Fees			
Concept Review	none	\$871	\$871
Precise Plan Amendment	none	\$5,673	\$5,673

Multiple Applications-Concurrent Processing: The total fee should equal the highest fee plus ½ the fee for the remaining applications.

Application Withdrawal: If a development application is withdrawn prior to Development Review Board consideration, 50% of the application fee shall be refunded.

1. **Plus State Board of Equalization Fee.**
2. **May include the following:**
 - a. County Clerk Recorder Administrative Fee \$50.00
 - b. State Department of Fish and Game Filing Fee \$1,250.00
3. **Document Fee:**
 - Planning Commission Minutes \$30.00/year
 - Planning Commission Agenda \$46.00/year
 - Board of Zoning Adjustment Minutes \$20.00/year
 - Board of Zoning Adjustment Agendas \$20.00/year
 - Other Reports and Documents, as Established by the Planning and Community Development Director from time to time.

ENGINEERING FEES FULL COST RECOVERY

Adjusted Each Year By Employment Cost Index-Compensation Costs
State & Local Government Employees

Service	Current Fee	Total Cost	Proposed Fee
Reversion to acreage checking fee	\$190.50	\$671	\$671
Final parcel map checking fee	\$385	\$1,178	\$1,178
Final subdivision map checking fee:			
10 lots	\$385	\$1,744	\$1,744
150 lots	\$1,484	\$4,100	\$1,744+ \$16.83 per lot above 10
Improvement plan checking:			
\$25K cost estimate	\$240	\$1,955	6.8% cost est.
\$100K cost estimate	\$335 plus	\$2,645	2.3% cost est.
\$250K cost estimate	\$335 plus	\$4,560	1.6% cost est.
Property owners' association doc checking fee		\$192	
Certificate of compliance	\$137	\$1,190	\$1,190
Right of way abandonment	\$190	\$1,676	\$1,680
Street Trees, each -furnished & installed by the city	\$66	\$153	\$150
Monument Deposit Fee	\$40/monument	n/a	\$40/monument
Street signs, each intersection, installed by the city	\$175	\$230	\$230
Encroachment permits¹			
Curbs and curb cuts (300 lf)	\$82/lot	\$170	\$170
Sidewalks (300 lf)	\$38.50/lot	\$170	\$170
Sewer service from lot to main ²	\$48.50	\$208	\$210
Sewer main (50 lf) ^{2,3}	\$72	\$283	\$280
Storm drain (through curb)	\$32.50	\$133	\$130
Utilities- major const. ²	\$68	\$57	\$60
Utilities- service & repair ²	\$68	\$208	\$210
Temp street closures	\$109.50	\$208	\$210
Street lights ²	\$109.50	\$208	\$210
Rock wells or storm drain connectors	\$72.50	\$208	\$210
Street construction (300 lf)	\$232.50	\$57	\$60
Misc improvements (300 lf)	\$201	\$57	\$60
Install refractor steel pole	\$55	\$133	\$130
Added refractor steel pole	\$13.50	\$133	\$130
Install mast arm wood pole	\$125	\$133	\$130
Added mast arm wood pile	\$102.5	\$133	\$130
Install luminaire , standard pole	\$20.50	\$208	\$210
Soil core sample	\$85	\$208	\$210
Rough Grading Plan Check	UBC	n/a	UBC
Proposed New Fees			
Legal description check	none	\$77	\$77
Reciprocal access agreements (parking, etc.)	none	\$268	\$268

(1) Additional fees charged if City employees perform paving or staking services.

(2) A trench restoration fee of \$2.50/s.f. is charged in addition. The trench restoration fee is an impact fee, rather than a user fee, and therefore is excluded from this study.

(3) Applicant shall pay an additional \$3.75/ lf for small laterals designed and drawn by the City.

FIRE PREVENTION FEES FULL COST RECOVERY

Adjusted Each Year By Employment Cost Index
Compensation Costs State & Local Government Employees

Service	Current Fee	Total Cost (Avg)	Proposed Fee
Fire/Safety Review:			
New Shell Building (per 1,000 sq ft)	\$28	\$49	\$50
Complete Building (per 1,000 sq ft)	\$35	\$62	\$60
Tenant Improvement (per 1,000 sq ft)	\$28	\$39	\$40
Fire Sprinkler System (per 1,000 sq ft)	\$13	\$17	\$17
Fire Alarm systems (per 1,000 sq ft)	none	\$17	\$17
Fire Sprinkler System Test & Inspection (per system riser)	\$137	\$389	\$390
Proposed New Fees			
Fire Alarm System Test & Inspection	none	\$79	\$79
Site Plan Review	none	\$79	\$79
Re-Inspection	none	\$59	\$59
After Hours Inspection	none	\$176	\$176
Incomplete or Changed Plans Check	none	\$117	\$117
Alternate materials/Methods Evaluation	none	\$237	\$237
Engineered/Pre-engineered Fire Prot System	none	\$167	\$167

PARKS & RECREATION LANDSCAPE REVIEW FEES FULL COST RECOVERY

Adjusted Each Year By Employment Cost Index
Compensation Costs State & Local Government Employees

Service	Current Fee	Total Cost (Avg)	Proposed Fee
Landscape Plan Check:			
Up to 5000 sq ft.	\$60	\$193	\$193
5001 to 10000 sq ft	\$78	\$298	\$298
10001 to 15000 sq ft.	\$98	\$351	\$351
15001 to 25000 sq ft.	\$115	\$456	\$456
25001 to 50000 sq ft.	\$115	\$561	\$561
50001 + sq ft.	\$152	\$824	\$824
Landscape Inspections:			
Up to 5000 sq ft.	\$82	\$141	\$141
5001 to 10000 sq ft	\$82	\$167	\$167
10001 to 15000 sq ft.	\$82	\$246	\$246
15001 to 25000 sq ft.	\$98	\$351	\$351
25001 to 50000 sq ft.	\$98	\$456	\$456
50001 + sq ft.	\$120	\$561	\$561
Re-checks:			
Up to 5000 sq ft.	\$22	\$141	\$141
5001 to 10000 sq ft	\$22	\$141	\$141
10001 to 15000 sq ft.	\$22	\$193	\$193
15001 to 25000 sq ft.	\$22	\$246	\$246
25001 to 50000 sq ft.	\$22	\$298	\$298
50001 + sq ft.	\$22	\$351	\$351
Re- inspections:			
Up to 5000 sq ft.	\$44	\$141	\$141
5001 to 10000 sq ft	\$44	\$141	\$141
10001 to 15000 sq ft.	\$44	\$167	\$167
15001 to 25000 sq ft.	\$44	\$193	\$193
25001 to 50000 sq ft.	\$44	\$193	\$193
50001 + sq ft.	\$44	\$246	\$246

PLANNING & ENGINEERING FEES

Time & Materials Basis*

Service	Current Fee	Total Cost (Avg)	Proposed Fee
Planning Fees-Current & Advance			
Development Agreement	\$940	t&m	\$5,000 dep, t&m
Environmental Assessment¹			
EIR- City Processing Costs	t&m	\$33,937	30% deposit, t&m
Mitigated Neg. Dec.- City Processing Cost	t& m	\$17,407	\$5,000 deposit, t&m
Staff Evaluation of Special Studies	\$475	\$3,824	\$3,000 deposit, t&m
Planning Fees- Advance			
General Plan Amendment	\$3,000 deposit, t&m	\$8,787	\$5,000 deposit, t&m
Proposed New Fees			
Specific Plan Review	No fee established	\$30,992	\$10,000 deposit, t&m
Special Agreements	No fee established	t&m	\$500 deposit, t&m
Water Supply Analysis	t&m	none	\$5,000 dep. t&m
Storm Water and Wastewater Capacity Analysis	t&m	none	\$3,000 dep. t&m

Multiple Applications-Concurrent Processing: The total fee should equal the highest fee plus ½ the fee for the remaining applications.

Application Withdrawal: If a development application is withdrawn prior to Development Review Board consideration, 50% of the application fee shall be refunded.

Not adjusted annually by the Employment Cost Index because recovering actual costs

* t&m = Time & Materials

1. May include the following:

County Clerk-Recorder Administration fee	\$50.00
State Department of Fish & Game Filing Fee	\$850.00

**BUILDING PERMIT FEE SCHEDULE
CITY OF MODESTO
2003**

BUILDING PERMIT FEE:

Total Valuation:

\$1.00	to	\$2,000.00	\$60.00	
\$2,001.00	to	\$25,000.00	\$60.00	for the first \$2,000 plus \$9 for each additional \$1,000 or fraction thereof, to and including \$25,000
\$25,001.00	to	\$50,000.00	\$267.00	for the first \$25,000 plus \$6.50 for each additional \$1,000 or fraction thereof, to and including \$50,000
\$50,001.00	to	\$100,000.00	\$429.50	for the first \$50,000 plus \$4.50 for each additional \$1,000 or fraction thereof, to and including \$100,000
\$100,001.00	to	\$500,000.00	\$654.50	for the first \$100,000 plus \$3.50 for each additional \$1,000 or fraction thereof, to and including \$500,000
\$500,001.00	to	\$1,000,000.00	\$2,054.50	for the first \$500,000 plus \$3 for each additional \$1,000 or fraction thereof, to and including \$1,000,000
\$1,000,001.00	and up		\$3,554.50	for the first \$1,000,000 plus \$2 for each additional \$1,000 or fraction thereof

PLAN CHECK FEE:

65% of Building Permit Fee

BUILDING COMPLIANCE INSPECTION FEE:

\$81.00 per incident

RESIDENTIAL (NEW SINGLE-FAMILY AND DUPLEX)

Master Plan "all inclusive" fee (residential)	\$.42	per square foot (house and garage)
Custom House "all inclusive" fee (residential)	\$.50	per square foot (house and garage)

OTHER RESIDENTIAL FEES

Remodel fee (residential)

Building Permit fee based on valuationsee "Building Permit Fee" Table above
 Plan Check65% of building permit fee

- Plumbing..... \$60.00
- Mechanical \$60.00
- Electrical \$60.00

Reroof fee (residential).....\$150.00

Pool (residential).....\$400.00

Pool with Spa (residential)\$550.00

Spa (residential)\$180.00

HVAC replacement (residential).....\$60.00

HVAC new (residential).....180.00

Plumbing Permit (residential)\$60.00

Mechanical Permit (residential).....\$60.00

Electrical Permit (residential).....\$60.00

COMMERCIAL AND MULTIFAMILY FEES

- Building Fees (commercial) -- (new, additions, excluding warehouses)

Building Permit fee based on valuation see "Building Permit Fee Table" above
 Plan Check 65% of building permit fee

Electrical fee	\$.07	per square foot minimum \$60.00
Plumbing fee	\$.05	per square foot minimum \$60.00
Mechanical fee	\$.05	per square foot minimum \$60.00

- Shell Building Fees (commercial) -- (finished building without tenants)

Building Permit fee based on valuationsee "Building Permit Fee Table" above
 Plan Check65% of building permit fee

Electrical fee	\$.07	per square foot minimum \$60.00
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Plumbing fee.....	\$.05	per square foot minimum \$60.00
Mechanical fee	\$.05	per square foot minimum \$60.00

- Shell Building Fees (commercial) -- (unfinished interior)

Building Permit fee based on valuation see "Building Permit Fee Table" above
 Plan Check.....65% of building permit fee

Electrical fee	\$60.00
Plumbing fee.....	\$60.00
Mechanical fee	\$60.00

- Tenant Improvements fees (commercial) -- (including commercial remodel and warehouse remodel)

Building Permit fee based on valuation see "Building Permit Fee Table" above
 Plan Check.....65% of building permit fee

Electrical fee	\$.07	per square foot minimum \$60.00
Plumbing fee.....	\$.05	per square foot minimum \$60.00
Mechanical fee	\$.05	per square foot minimum \$60.00

- Warehouse Permit fees (commercial)

Building Permit fee based on valuation see "Building Permit Fee Table" above
 Plan Check.....65% of building permit fee

Less than 20,000 Square Feet:

Electrical fee	\$.07	per square foot minimum \$60.00
Plumbing fee.....	\$.05	per square foot minimum \$60.00
Mechanical fee	\$.05	per square foot minimum \$60.00

Over 20,000 Square Feet:

Electrical fee	\$1,400 + .03	per square foot over 20,000 sq ft
Plumbing fee.....	\$1,000 + .02	per square foot over 20,000 sq ft
Mechanical fee	\$1,000 + .02	per square foot over 20,000 sq ft

OTHER COMMERCIAL, MULTIFAMILY, AND WAREHOUSE FEES NOT CATEGORIZED ABOVE

Plumbing Permit (commercial)	\$60.00
Mechanical Permit (commercial)	\$60.00
Electrical Permit (commercial)	\$60.00

STRONG MOTION INSTRUMENTATION FEE (EARTHQUAKE TAX)

Collected on new buildings, building alterations, additions, and repairs, as well as all-inclusive permits, ramadas, porches, awnings

- Residential Permits..... Multiply valuation by .0001
Minimum Fee \$.50
- Commercial Permits..... Multiply valuation by .00021
Minimum Fee \$.50

PRE-MOVE INSPECTION FEE AND MOVING PERMIT

Investigation of suitability of building located
in City for moving to another site in City \$100.00

Investigation of suitability of building located
outside City limits for moving into City \$100.00 + current approved
mileage rate

Building located in City and is to be moved
outside the City there is no investigation fee

HOUSE MOVING PERMIT

Permits for moving of house to new location \$60.00

MOBILE HOME PARK FEES

Special fees for mobile home parks which are based on State Codes

Each Cabana	\$60.00
Each Ramada	\$60.00
Each Awning.....	\$60.00
Each Carport	\$60.00

Each Porch	\$60.00
Each Fence or Windbreak	\$60.00
Each Set-Up	\$75.00
Each Set-Up Reinspection	\$75.00

An issuance fee only with no additional charge will be required for screening of an existing awning.

OTHER INSPECTIONS AND FEES

Inspection outside of normal business hours (minimum charge – two hours)	\$100.00/hour
Weekend and holidays (minimum charge – four hours)	\$100.00/hour
Reinspection fee assessed under provisions of Section 305(g)	\$75.00 each
Inspections for which no fee is specially indicated (minimum charge - 1 hour)	\$100.00/hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – 1 hour)	\$100.00/hour
Inspections outside of normal business hours (minimum charge - 2 hours)	\$100.00/hour

PLANNING FEES PERCENTAGE OF FULL COST RECOVERY

Adjusted Each Fiscal Year By Employment Cost Index-Compensation Costs
State & Local Government Employees

Service	Current Fee	Total Cost	Proposed Fee
Rezoning	\$1,000	\$4,688	\$2,344
Proposed New Fee			
General Plan Maintenance Recovery Fee*	none	\$249,249	\$0.26*

Multiple Applications-Concurrent Processing: The total fee should equal the highest fee plus ½ the fee for the remaining applications.

Application Withdrawal : If a development application is withdrawn prior to Development Review Board consideration, 50% of the application fee shall be refunded.

* Recovery based on 40% of full cost. Charge of \$.026 charged per \$1,000 of building construction valuation. Not adjusted annually.

PLANNING FEES NOT ADJUSTED ANNUALLY

Subsidized For Public Policy Purposes

Service	Current Fee	Total Cost	Proposed Fee
Planning Fees- Current			
Plot plan review-satellite antenna, SFD	\$135	\$3,716	\$217
Conditional use permit- SFR	\$205	\$3,983	\$330
Variance- SFR in R-A, R-1, R-2, or R-3	\$205	\$3,666	\$330
Appeal of PC or BZA decisions	\$100	\$1,035	\$200
Appeal of staff decisions	\$100	\$3,743	\$200

Multiple Applications-Concurrent Processing: The total fee should equal the highest fee plus ½ the fee for the remaining applications.

Application Withdrawal: If a development application is withdrawn prior to Development Review Board consideration, 50% of the application fee shall be refunded.

News

United States
Department
of Labor



Bureau of Labor Statistics Washington, D.C. 20212

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TRANSMISSION OF MATERIAL
IN THIS RELEASE IS EMBARGOED
UNTIL 8:30 A.M. (EST),
THURSDAY, JANUARY 30, 2003

EMPLOYMENT COST INDEX—DECEMBER 2002

The Employment Cost Index for total compensation rose 0.7 percent from September to December, following a 0.8 percent gain from June to September, seasonally adjusted, the Bureau of Labor Statistics of the U.S. Department of Labor reported today. Benefit costs continued to outpace the gains in wages and salaries for civilian workers in December, increasing 1.3 percent compared with a modest rise of 0.4 percent for wages and salaries. The Employment Cost Index (ECI), a component of the National Compensation Survey, measures quarterly changes in compensation costs, which include wages, salaries, and employer costs for employee benefits, for nonfarm private and State and local government workers.

Employer costs for benefits account for nearly 30 percent of compensation costs and include such items as health and other insurance, retirement plans, paid leave, and legally-required benefits like Social Security. The 1.3 percent increase in benefit costs this quarter was in line with quarterly increases over the past four years. Since 1999, benefit costs for civilian workers have increased about 20 percent, double the pace for 1995-1998. Much of the increase in benefit costs over the past few years stemmed from rising costs for health insurance and retirement plans.

Quarterly changes, seasonally adjusted

The 3-month increase in compensation costs for State and local government workers was 0.9 percent from September to December, after a sharp gain of 1.5 percent for the quarter ended in September. Compensation costs for private sector workers advanced 0.7 percent from September to December, after rising 0.6 percent in the prior quarter. Although compensation costs rose 1.3 percent for construction and durable manufacturing industries, private sector compensation gains were dampened by slower growth among service-producing industries. (See tables A and 1.)

Wages and salaries increased 0.4 percent for civilian workers (nonfarm private industry and State and local government) during the December quarter, following a 0.5 percent rise in the September quarter. The private sector continued to show moderate gains, inching up 0.4 percent for the second consecutive quarter after larger gains earlier in the year. Wage and salary increases slowed in nondurable manufacturing industries, transportation and public utilities, services industries, and among service workers. Wages and salaries in State and local government advanced 0.8 percent during the September-December period, following a 0.9 percent increase in the June-September quarter.

Table A. 3-month percent changes in Employment Cost Index, seasonally adjusted

Compensation Component	Mar. 2001	June 2001	Sep. 2001	Dec. 2001	Mar. 2002	June 2002	Sep. 2002	Dec. 2002
Civilian workers								
Compensation costs	1.1	1.0	1.0	1.0	0.8	1.0	0.8	0.7
Wages and salaries	1.0	1.0	0.8	0.9	0.8	1.0	0.5	0.4
Benefit costs	1.2	1.1	1.5	1.2	1.0	1.3	1.4	1.3
Private industry								
Compensation costs	1.1	1.0	0.9	1.0	0.9	1.1	0.6	0.7
Wages and salaries	1.0	1.0	0.7	0.9	0.9	1.0	0.4	0.4
Benefit costs	1.3	1.1	1.4	1.3	1.1	1.4	1.0	1.2
State and local government								
Compensation costs	1.0	1.1	1.4	0.6	0.7	0.8	1.5	0.9
Wages and salaries	0.9	1.0	1.0	0.7	0.7	0.8	0.9	0.8
Benefit costs	1.1	1.2	2.2	0.8	0.7	0.8	3.0	1.6

The 1.3 percent increase in benefit costs for civilian workers followed a 1.4 percent gain in the June-September quarter. In the private sector, benefit costs were up 1.2 percent for the December quarter, compared with a 1.0 percent advance in the June-September period. By contrast, the increase for State and local governments declined from the 3.0 percent gain in the September quarter to a 1.6 percent increase in December.

Over-the-year changes, not seasonally adjusted

Compensation gains moderated for civilian workers for the 12 months ended in December. Annual compensation costs for civilian workers (not seasonally adjusted) increased 3.4 percent, lower than the over-the-year increases of 4.1 percent in both December 2001 and December 2000. Compensation costs in private industry rose 3.2 percent in the year ended December 2002, compared with larger increases of 4.2 percent for December 2001 and 4.4 percent for December 2000. In State and local government, compensation costs increased 4.1 percent for the year ended December 2002; over-the-year gains were 4.2 percent in December 2001 and 3.0 percent in December 2000. (See tables B, 2, and 3.)

Nonfarm private industry

In private industry, annual gains slowed in the 12-months ended in December 2002. Wages and salaries rose a modest 2.7 percent, after increasing 3.8 percent in the year ended in December 2001. (See tables B and 6.) Benefit costs for private industry workers advanced 4.7 percent for the year ended in December 2002, compared with an increase of 5.1 percent in December 2001. (See tables B and 8.)

Table B. 12-month percent changes in Employment Cost Index, not seasonally adjusted

Compensation Component	Dec. 1997	Dec. 1998	Dec. 1999	Dec. 2000	Dec. 2001	Dec. 2002
Civilian workers						
Compensation costs	3.3	3.4	3.4	4.1	4.1	3.4
Wages and salaries	3.8	3.7	3.5	3.8	3.7	2.9
Benefit costs	2.1	2.6	3.3	4.9	5.2	5.0
Private industry						
Compensation costs	3.4	3.5	3.4	4.4	4.2	3.2
Wages and salaries	3.9	3.9	3.5	3.9	3.8	2.7
Benefit costs	2.3	2.4	3.4	5.6	5.1	4.7
State and local government						
Compensation costs	2.3	3.0	3.4	3.0	4.2	4.1
Wages and salaries	2.7	3.1	3.6	3.3	3.6	3.2
Benefit costs	1.3	3.0	2.8	2.4	5.5	6.2

In private industry, over-the-year compensation cost increases were 3.2 percent for white-collar occupations, 3.6 percent for blue-collar occupations, and 3.2 percent for service occupations. Among white-collar occupational groups, compensation gains ranged from 2.6 percent for professional specialty and technical workers to 3.7 percent for administrative support, including clerical workers. Among blue-collar workers, compensation costs moved up 4.1 percent for handlers, equipment cleaners, and laborers, compared with a gain of 3.4 percent among machine operators, assemblers, and inspectors. (See table 3.)

For the year ended December 2002, compensation increased 3.7 percent for goods-producing industries, compared with a 3.8 percent advance for the year ended December 2001. Compensation costs for manufacturing led the gain, turning up 3.8 percent in December 2002 after advancing 3.5 percent in December 2001. Compensation costs for construction slowed to a 3.2 percent gain, compared with a 4.3 percent rise in 2001. (See table 3.)

The over-the-year increase in compensation for service-producing industries declined to 3.1 percent, compared with a 4.3 percent gain for the year ended December 2001. Among service-producing industries, the 12-month increases for business services inched up only 0.8 percent for 2002, down from 4.9 percent in 2001. Conversely, compensation costs jumped 6.3 percent in banking, savings and loan, and other credit agencies in the year ended December 2002, following a 4.7 percent increase for 2001.

Compensation costs for union workers advanced 4.2 percent over the year, greater than the 3.2 percent increase for nonunion workers. In service-producing industries, compensation costs rose 4.5 percent for union workers, higher than the modest gain of 3.0 percent for nonunion workers. In goods-producing industries, the increase for union workers was 4.0 percent, compared with a 3.5 percent advance for nonunion workers. (See tables C and 4.)

Wages and salaries for union workers rose 3.5 percent for the 12 months ended in December 2002. This compares with over-the-year increases of 4.4 percent in December 2001 and 3.4 percent in December 2000. Wage and salary gains for nonunion workers were 2.7 percent in December 2002, compared with advances of 3.6 percent in December 2001 and 4.0 percent in December 2000. (See tables C and 7.)

Table C. 12-month percent changes in Employment Cost Index, not seasonally adjusted

Compensation Component	Dec. 1997	Dec. 1998	Dec. 1999	Dec. 2000	Dec. 2001	Dec. 2002
Union workers						
Compensation costs	2.1	3.0	2.7	4.0	4.2	4.2
Wages and salaries	2.8	3.3	2.6	3.4	4.4	3.5
Benefit costs	0.9	2.5	2.8	5.2	3.7	5.7
Nonunion workers						
Compensation costs	3.8	3.5	3.6	4.4	4.1	3.2
Wages and salaries	4.2	4.0	3.6	4.0	3.6	2.7
Benefit costs	2.7	2.4	3.5	5.7	5.4	4.5

Among the four geographic regions, increases in compensation costs ranged from 2.8 percent in the South to 3.8 percent in the Midwest for the year ended in December 2002. Compensation costs rose 3.2 percent in the Northeast and 3.5 percent in the West. In metropolitan areas, compensation costs advanced 3.2 percent for the year ended in December 2002, compared with a rise of 3.3 percent in other areas. (See table 4.)

State and local government

In State and local government, the December 2002 over-the-year increase in wages and salaries was 3.2 percent, compared with a gain of 3.6 percent for December 2001. Among occupational groups, service workers inched up a modest 2.4 percent for the year ended December 2002, compared with gains of 2.9 percent for blue-collar workers and 3.3 percent for white-collar workers. Benefit costs moved up 6.2 percent for December 2002 compared with the December 2001 gain of 5.5 percent. (See tables B, 5, and 8.)

NOTES:

The new seasonal factors for 2003, along with revised seasonally adjusted indexes for the past five years will be available Thursday, April 24, 2003, on the Internet site <http://www.bls.gov/ect/home.htm>, by e-mail request ocltinfo@bls.gov, or by telephone (202) 691-6199. The ECI for March 2003 is scheduled to be released Tuesday, April 29, 2003, at 8:30 a.m. (EDT).

Supplemental data from the ECI, providing 12-month percent changes in employer costs for health insurance in private industry from March 1982 to December 2002, will be available shortly after publication of this news release on the Internet site <http://www.bls.gov/ect/home.htm> or upon request.

The costs per hour worked of compensation components, based on data from the ECI, were published on December 11, 2002, in a news release titled "Employer Costs for Employee Compensation—September 2002." Employer Costs for Employee Compensation was changed from an annual to a quarterly publication beginning with June 2002 data. Future publications will be issued approximately three months after the survey months of March, June, September, and December.

ECI data are available on the Compensation Cost Trends page at <http://www.bls.gov/ncs/ect/home.htm>. To access data using Anonymous FTP, use the Internet address <ftp://ftp.bls.gov>.

For technical assistance in using the BLS Internet site, send e-mail to webmaster@bls.gov. For ECI data requests, send e-mail to ocltinfo@bls.gov.

The ECI news release is available through an e-mail subscription service. See the subscription link on <http://www.bls.gov/ncs/ect/home.htm> or <http://www.bls.gov/bls/newsrels.htm>.

News releases and other information are available from the BLS fax-on-demand service. To request a document fax, call (202) 691-6325. To request a catalog of available documents, select option 2 at the initial voice prompt. To request data found in this news release, enter the following codes:

Text	4110
Tables 1-4	4115
Tables 5-7	4120
Table 8	4125
Explanatory notes	4190

Employment Cost Index

Chart A. Changes in wages and salaries and in benefit costs, private industry, 1980-2002

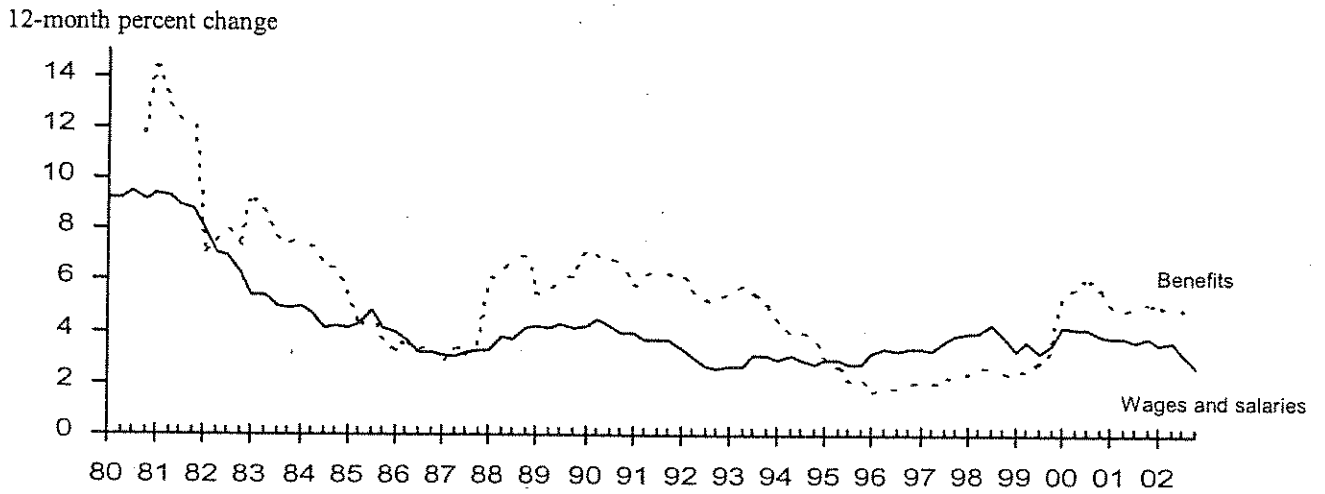


Chart B. Changes in wages and salaries, private industry and State and local government, 1980-2002

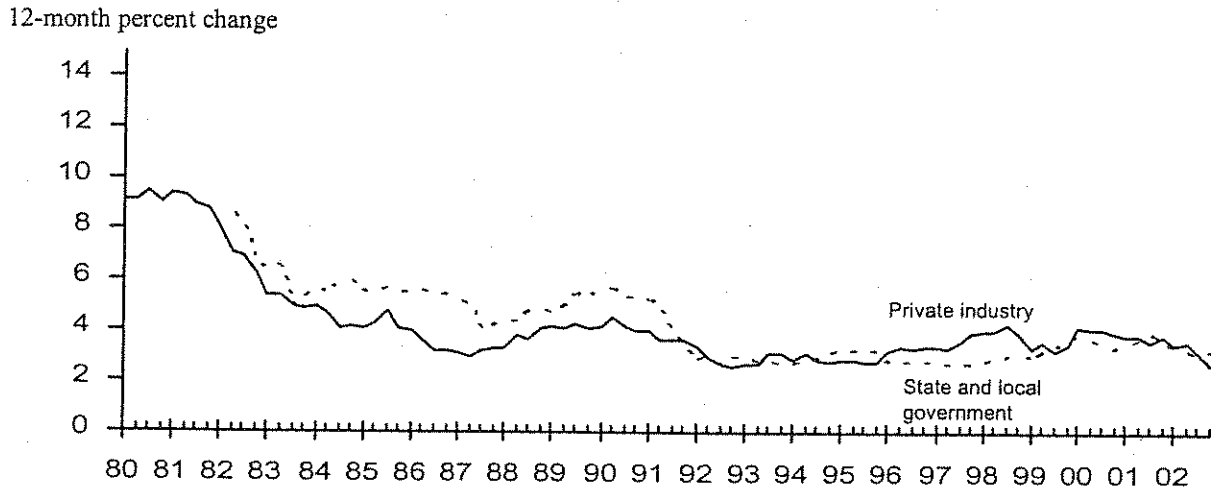


Chart C. Changes in benefits, private industry and State and local government, 1980-2002

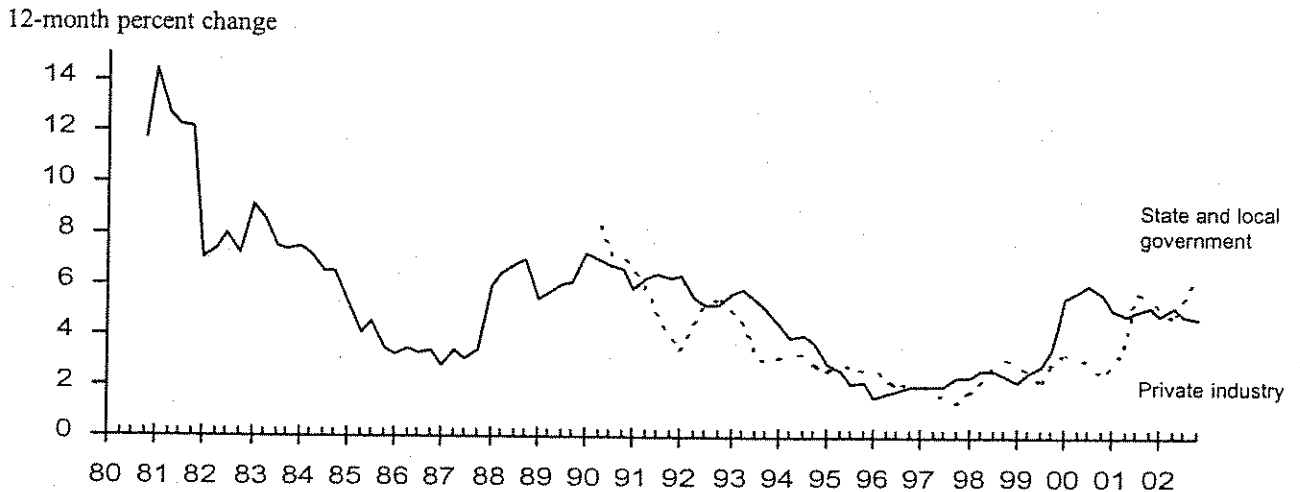


Table 1. Employment Cost Index for total compensation¹, wages and salaries, and benefit costs by industry and occupational group

(Seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)		Percent changes for 3-months ended-							
	Sep. 2002	Dec. 2002	Mar. 2001	Jun. 2001	Sep. 2001	Dec. 2001	Mar. 2002	Jun. 2002	Sep. 2002	Dec. 2002
TOTAL COMPENSATION										
Civilian workers	161.1	162.3	1.1	1.0	1.0	1.0	0.8	1.0	0.8	0.7
State and local government	159.7	161.2	1.0	1.1	1.4	.6	.7	.8	1.5	.9
Private industry	161.4	162.5	1.1	1.0	.9	1.0	.9	1.1	.6	.7
Industry										
Goods producing ²	158.8	160.4	1.1	.9	.8	.9	.9	1.0	.7	1.0
Construction	156.1	158.2	1.0	1.1	1.0	1.2	.7	.4	.8	1.3
Manufacturing	159.1	160.8	1.1	.9	.6	1.0	1.0	.9	.8	1.1
Durables	158.9	160.9	.9	.8	.7	1.0	.8	.8	.5	1.3
Nondurables	159.4	160.7	1.4	1.0	.5	.9	1.3	1.2	1.3	.8
Service producing ³	162.7	163.5	1.1	1.0	1.0	1.1	.8	1.2	.6	.5
Transportation and public utilities	160.6	162.0	1.3	1.2	1.7	1.6	1.0	1.0	1.1	.9
Wholesale trade	166.0	166.6	.7	1.4	.8	.4	1.8	2.3	.0	.4
Retail trade	155.8	156.4	1.0	.6	.8	2.1	-.3	1.3	.3	.4
Finance, insurance, and real estate ⁴	168.0	168.5	1.4	1.0	.9	.2	2.4	1.3	.4	.3
Services	164.7	165.6	1.4	.8	1.3	.9	.9	.7	.6	.5
Nonmanufacturing	161.9	162.8	1.1	1.0	1.0	1.1	.8	1.1	.6	.6
Occupational group										
White collar	164.5	165.6	1.1	1.0	.9	1.2	.8	1.1	.6	.7
Blue collar	156.1	157.6	1.0	.7	1.1	.9	.9	.9	.7	1.0
Service	158.8	159.6	1.2	.8	1.0	1.4	1.2	.6	1.1	.5
WAGES AND SALARIES										
Civilian workers	157.0	157.7	1.0	1.0	.8	.9	.8	1.0	.5	.4
State and local government	157.1	158.3	.9	1.0	1.0	.7	.7	.8	.9	.8
Private industry	156.9	157.6	1.0	1.0	.7	.9	.9	1.0	.4	.4
Industry										
Goods producing ^{2,4}	153.9	155.0	1.2	1.1	.6	.7	.8	.9	.5	.7
Construction	148.9	150.5	.9	1.0	1.0	1.1	.3	.5	.7	1.1
Manufacturing ⁴	155.4	156.5	1.4	1.0	.5	.7	.9	.9	.6	.7
Durables ⁴	156.0	157.3	1.2	1.0	.7	.7	.9	.9	.5	.8
Nondurables	154.5	155.5	1.2	1.1	.3	.7	.8	.9	1.0	.6
Service producing ³	158.3	158.8	.9	.9	.9	1.0	.9	1.0	.4	.3
Transportation and public utilities	153.3	154.1	1.1	1.2	.7	1.8	1.0	.9	.9	.5
Wholesale trade	160.5	160.8	.5	1.3	.1	.3	2.0	2.0	-.2	.2
Retail trade	152.8	153.2	.8	.5	.7	1.7	-.3	1.1	.2	.3
Finance, insurance, and real estate ⁴	162.4	162.6	1.5	.5	.8	.1	2.8	1.1	.2	.1
Services	161.4	161.8	1.2	.9	1.2	.8	.7	.6	.6	.2
Nonmanufacturing	157.1	157.7	.9	.9	.9	1.1	.8	.9	.4	.4

See footnotes at end of table.

Table 1. Employment Cost Index for total compensation¹, wages and salaries, and benefit costs by industry and occupational group — Continued

(Seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)		Percent changes for 3-months ended—							
	Sep. 2002	Dec. 2002	Mar. 2001	Jun. 2001	Sep. 2001	Dec. 2001	Mar. 2002	Jun. 2002	Sep. 2002	Dec. 2002
WAGES AND SALARIES—Continued										
Occupational group										
White collar	159.9	160.6	1.0	0.9	0.7	1.0	0.9	1.0	0.4	0.4
Blue collar ⁴	151.7	152.4	1.3	.9	1.1	.5	.9	.9	.5	.5
Service ⁴	153.9	154.5	1.0	.8	.8	1.3	.9	.5	.7	.4
BENEFIT COSTS										
Civilian workers	171.3	173.5	1.2	1.1	1.5	1.2	1.0	1.3	1.4	1.3
State and local government	165.7	168.3	1.1	1.2	2.2	.8	.7	.8	3.0	1.6
Private industry	172.6	174.7	1.3	1.1	1.4	1.3	1.1	1.4	1.0	1.2
Industry										
Goods producing ²	168.9	171.6	.9	.8	1.0	1.4	1.4	1.0	1.1	1.6
Manufacturing	167.0	169.6	.8	.6	.7	1.4	1.4	1.2	1.1	1.6
Service producing ³	174.8	176.6	1.4	1.3	1.6	1.2	.8	1.6	1.0	1.0
Nonmanufacturing	175.0	176.9	1.5	1.3	1.5	1.3	.8	1.5	1.0	1.1
Occupational group										
White collar	177.2	179.3	1.6	1.4	1.4	1.5	.6	1.6	.8	1.2
Blue collar	166.1	168.0	.9	.3	1.3	.8	1.8	1.0	1.3	1.1
Service	173.5	175.0	1.9	1.0	1.4	1.7	1.6	.8	1.9	.9

¹ Includes wages, salaries, and employer costs for employee benefits.

² Includes mining, construction, and manufacturing.

³ Includes transportation, communication, and public utilities; wholesale and

retail trade; finance, insurance, and real estate; and service industries.

⁴ No identifiable seasonality was found for this series.

Table 2. Employment Cost Index for total compensation¹ for civilian and State and local government workers by industry and occupational group

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for—					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended—			12 months ended—		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Civilian workers	156.8	161.3	162.2	0.8	0.9	0.6	4.1	3.7	3.4
Excluding sales occupations	156.8	161.3	162.2	.8	1.0	.6	4.2	3.7	3.4
Industry									
Goods producing ²	154.4	158.7	160.2	.8	.6	.9	3.8	3.6	3.8
Manufacturing	154.6	159.1	160.5	.8	.6	.9	3.5	3.8	3.8
Service producing ³	157.6	162.2	162.8	.8	.9	.4	4.3	3.7	3.3
Services	159.0	163.2	163.9	.6	1.3	.4	4.3	3.2	3.1
Health services	158.3	163.1	164.5	1.0	.8	.9	5.0	4.1	3.9
Hospitals	160.0	165.7	167.6	1.1	1.2	1.1	5.8	4.7	4.8
Educational services	156.6	161.6	162.8	.3	2.7	.7	4.0	3.5	4.0
Public administration ⁴	155.2	160.2	161.7	.9	1.7	.9	4.7	4.2	4.2
Nonmanufacturing	157.2	161.7	162.4	.8	.9	.4	4.3	3.7	3.3
Occupational group									
White collar	158.9	163.5	164.3	.8	.9	.5	4.2	3.7	3.4
Excluding sales	159.2	163.7	164.6	.7	1.0	.5	4.3	3.5	3.4
Professional specialty and technical	157.5	161.4	162.4	.5	1.3	.6	4.1	3.0	3.1
Executive, administrative, and managerial	161.2	166.3	166.7	1.0	.4	.2	4.3	4.2	3.4
Administrative support, including clerical	160.0	164.9	166.1	.8	1.0	.7	4.7	3.8	3.8
Blue collar	152.0	156.4	157.5	.6	.8	.7	3.8	3.5	3.6
Service	156.9	161.3	162.2	1.2	1.2	.6	4.6	4.1	3.4
State and local government	155.2	160.1	161.5	.6	2.2	.9	4.2	3.8	4.1
Industry									
Services	154.9	159.7	160.9	.3	2.4	.8	4.0	3.4	3.9
Excluding schools	156.1	161.0	162.8	1.0	1.4	1.1	4.9	4.2	4.3
Health services	158.6	163.5	165.5	1.0	1.3	1.2	4.6	4.1	4.4
Hospitals	159.1	164.1	166.2	1.1	1.4	1.3	4.7	4.3	4.5
Educational services	154.5	159.2	160.3	.3	2.6	.7	3.9	3.3	3.8
Schools	154.8	159.6	160.7	.3	2.7	.7	3.9	3.4	3.8
Elementary and secondary	153.1	157.7	158.8	.2	2.7	.7	3.4	3.2	3.7
Colleges and universities	159.6	164.7	165.8	.4	2.7	.7	5.2	3.6	3.9
Public administration ⁴	155.2	160.2	161.7	.9	1.7	.9	4.7	4.2	4.2
Occupational group									
White collar	154.4	159.3	160.7	.5	2.3	.9	4.1	3.6	4.1
Professional specialty and technical	153.2	158.1	159.4	.3	2.6	.8	3.9	3.5	4.0
Executive, administrative, and managerial	157.6	162.3	163.8	.8	1.6	.9	4.6	3.8	3.9
Administrative support, including clerical	155.6	161.0	162.4	.9	1.9	.9	4.1	4.4	4.4
Blue collar	153.2	158.4	159.8	1.1	2.4	.9	4.1	4.6	4.3
Service	160.5	165.2	166.3	.9	1.7	.7	5.0	3.9	3.6

¹ Includes wages, salaries, and employer costs for employee benefits.

² Includes mining, construction, and manufacturing.

³ Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; service

industries; and public administration.

⁴ Includes executive, legislative, judicial, administrative, and regulatory activities of State and local governments, SICs 91 through 96.

Table 3. Employment Cost Index for total compensation¹ for private industry workers, by industry and occupational group

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for--					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended--			12 months ended--		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Private industry workers	157.2	161.6	162.3	0.8	0.6	0.4	4.2	3.7	3.2
Excluding sales occupations	157.2	161.6	162.4	.8	.7	.5	4.2	3.6	3.3
Industry									
Goods producing ²	154.4	158.6	160.1	.8	.6	.9	3.8	3.6	3.7
Excluding sales	153.7	157.9	159.2	.8	.6	.8	3.7	3.5	3.6
White collar	158.1	162.9	164.3	.8	.6	.9	4.1	3.9	3.9
Excluding sales	156.5	161.1	162.3	.8	.6	.7	4.0	3.7	3.7
Blue collar	151.9	155.9	157.3	.7	.7	.9	3.5	3.4	3.6
Construction	153.0	156.3	157.9	.9	.7	1.0	4.3	3.0	3.2
Manufacturing	154.6	159.1	160.5	.8	.6	.9	3.5	3.8	3.8
White collar	156.9	162.2	163.3	.6	.7	.7	3.6	4.0	4.1
Excluding sales	154.7	159.6	160.7	.6	.6	.7	3.3	3.8	3.9
Blue collar	152.7	156.7	158.3	.9	.6	1.0	3.3	3.6	3.7
Durables	155.3	158.9	160.6	.8	.4	1.1	3.5	3.2	3.4
Aircraft manufacturing (SIC 3721) ..	163.4	168.8	172.3	1.9	-.1	2.1	5.2	5.3	5.4
White collar	159.0	163.7	165.3	1.7	-.3	1.0	5.2	4.7	4.0
Blue collar	169.1	175.4	182.3	2.3	.3	3.9	5.4	6.1	7.8
Nondurables	153.2	159.2	160.3	.8	1.1	.7	3.7	4.7	4.6
Service producing ³	158.2	162.7	163.1	.8	.6	.2	4.3	3.7	3.1
Excluding sales	159.0	163.5	164.0	.8	.7	.3	4.5	3.6	3.1
White collar	160.3	164.7	165.1	.8	.4	.2	4.3	3.6	3.0
Excluding sales	162.2	166.5	167.0	.8	.5	.3	4.6	3.5	3.0
Blue collar	151.4	156.6	156.9	.3	.9	.2	4.2	3.8	3.6
Service	154.2	158.5	159.3	1.3	1.0	.5	4.3	4.1	3.3
Transportation and public utilities	155.5	160.8	161.7	1.3	1.2	.6	4.9	4.8	4.0
Transportation	151.1	155.4	156.1	2.0	1.0	.5	5.0	4.9	3.3
Public utilities	161.5	168.2	169.2	.5	1.6	.6	4.8	4.7	4.8
Communications	163.4	169.0	170.1	.4	1.7	.7	5.6	3.8	4.1
Electric, gas, and sanitary services ..	159.1	167.2	168.1	.6	1.5	.5	3.7	5.8	5.7
Wholesale and retail trade	155.5	159.6	159.7	1.2	.1	.1	4.1	3.8	2.7
Excluding sales	157.1	160.3	160.4	1.1	.2	.1	4.3	3.2	2.1
Wholesale trade	159.5	165.9	166.7	.6	-.2	.5	3.3	4.6	4.5
Excluding sales	160.6	166.1	167.2	.4	1.0	.7	3.7	3.8	4.1
Retail trade	153.2	156.0	155.8	1.5	.3	-.1	4.5	3.4	1.7
General merchandise stores	150.9	156.1	155.1	.8	1.2	-.6	4.5	4.3	2.8
Food stores	151.7	156.3	156.3	1.3	1.2	.0	5.0	4.4	3.0
Finance, insurance, and real estate	161.3	168.0	168.5	.2	.4	.3	3.6	4.4	4.5
Excluding sales	165.0	172.1	173.1	.2	.5	.6	4.2	4.5	4.9
Banking, savings and loan, and other credit agencies	174.3	184.6	185.3	-.6	.2	.4	4.7	5.2	6.3
Insurance	161.3	167.1	167.9	.9	.6	.5	3.9	4.5	4.1
Excluding sales	159.4	165.1	165.7	.9	.5	.4	4.1	4.5	4.0
Services	161.0	164.9	165.4	.6	.7	.3	4.5	3.1	2.7
Business services	166.2	167.2	167.5	.6	.4	.2	4.9	1.2	.8
Health services	158.4	163.2	164.4	1.0	.7	.7	5.2	4.1	3.8
Hospitals	160.3	166.2	168.1	1.2	1.0	1.1	6.1	4.9	4.9
Nursing homes	-	-	-	.9	.7	.8	5.1	4.1	4.0
Educational services	167.6	173.5	175.2	.7	2.7	1.0	4.8	4.3	4.5
Colleges and universities	167.5	172.0	173.7	.8	2.1	1.0	5.2	3.5	3.7

See footnotes at end of table.

Table 3. Employment Cost Index for total compensation¹ for private industry workers, by industry and occupational group — Continued

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for—					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended—			12 months ended—		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Industry—Continued									
Nonmanufacturing industries	157.6	162.0	162.5	0.8	0.6	0.3	4.3	3.6	3.1
White collar	160.5	164.8	165.3	.9	.4	.3	4.4	3.6	3.0
Excluding sales	162.3	166.6	167.1	.9	.5	.3	4.6	3.5	3.0
Blue collar	150.6	155.4	155.9	.3	.9	.3	4.0	3.5	3.5
Service	154.1	158.4	159.2	1.3	1.0	.5	4.3	4.1	3.3
Occupational group									
White collar	160.1	164.6	165.2	.9	.5	.4	4.2	3.7	3.2
Excluding sales	160.9	165.3	165.9	.8	.6	.4	4.4	3.6	3.1
Professional specialty and technical	160.3	163.6	164.4	.7	.7	.5	4.3	2.8	2.6
Executive, administrative, and managerial	161.8	167.0	167.2	1.0	.2	.1	4.2	4.2	3.3
Sales	156.7	161.6	161.9	1.1	.0	.2	3.5	4.3	3.3
Administrative support, including clerical	160.8	165.6	166.7	.8	.9	.7	4.8	3.8	3.7
Blue collar	151.9	156.3	157.3	.6	.8	.6	3.8	3.5	3.6
Precision production, craft, and repair	152.5	156.9	157.8	.5	.8	.6	4.0	3.4	3.5
Machine operators, assemblers, and inspectors	151.5	155.4	156.7	.7	.5	.8	3.2	3.3	3.4
Transportation and material moving	146.3	151.0	151.8	.5	.9	.5	3.7	3.7	3.8
Handlers, equipment cleaners, helpers, and laborers	156.5	161.4	162.9	1.0	.9	.9	4.1	4.2	4.1
Service	154.8	159.0	159.8	1.4	1.0	.5	4.5	4.2	3.2
Production and nonsupervisory occupations⁴	155.5	159.7	160.5	.8	.6	.5	4.0	3.5	3.2

¹ Includes wages, salaries, and employer costs for employee benefits.

² Includes mining, construction, and manufacturing.

³ Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service industries.

⁴ This series has the same industry and occupational coverage as the Hourly Earnings Index, which was discontinued in January 1989.

NOTE: Dashes indicate data not available.

Table 4. Employment Cost Index for total compensation¹ for private industry workers, by bargaining status, region, and area

(Not seasonally adjusted data)

Bargaining status, region, and area	Indexes (June 1989=100)			Percent changes for—					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended—			12 months ended—		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Bargaining status									
Union	153.1	158.1	159.5	1.4	1.2	0.9	4.2	4.7	4.2
Blue-collar occupations	150.0	155.2	156.6	.9	1.1	.9	3.4	4.4	4.4
Goods-producing industries ²	151.8	156.2	157.8	.8	1.0	1.0	3.1	3.7	4.0
Service-producing industries ³	154.2	159.9	161.1	2.0	1.5	.8	5.3	5.8	4.5
Manufacturing	151.4	155.9	157.9	1.0	.8	1.3	2.7	4.0	4.3
Blue-collar occupations	150.9	155.0	157.0	1.0	.8	1.3	2.7	3.7	4.0
Nonmanufacturing	153.5	158.8	159.9	1.6	1.4	.7	5.0	5.1	4.2
Nonunion	157.8	162.2	162.8	.7	.5	.4	4.1	3.5	3.2
Blue-collar occupations	152.9	156.9	157.7	.5	.6	.5	3.9	3.1	3.1
Goods-producing industries ²	155.3	159.5	160.8	.8	.6	.8	4.0	3.6	3.5
Service-producing industries ³	158.6	162.9	163.3	.7	.4	.2	4.1	3.4	3.0
Manufacturing	155.5	160.1	161.3	.7	.6	.7	3.7	3.7	3.7
Blue-collar occupations	153.5	157.5	158.8	.9	.5	.8	3.7	3.6	3.5
Nonmanufacturing	158.2	162.4	162.9	.8	.4	.3	4.2	3.4	3.0
Region⁴									
Northeast	156.3	160.5	161.3	.7	.4	.5	4.0	3.4	3.2
South	154.6	158.9	159.0	.7	.8	.1	4.0	3.5	2.8
Midwest	158.6	163.5	164.6	.8	.6	.7	3.5	3.9	3.8
West	159.4	163.8	165.0	1.1	.6	.7	5.0	3.9	3.5
Area									
Metropolitan	157.4	161.8	162.5	.9	.6	.4	4.2	3.7	3.2
Other	155.6	160.0	160.8	.5	.9	.5	3.5	3.4	3.3

¹ Includes wages, salaries, and employer costs for employee benefits.

² Includes mining, construction, and manufacturing.

³ Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service industries.

⁴ The regional coverage is as follows: Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; South: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi,

North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; Midwest: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and West: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE: The indexes for these series are not strictly comparable to those for the aggregate, occupation, and industry series.

Table 5. Employment Cost Index for wages and salaries for civilian and State and local government workers, by industry and occupational group

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for—					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended—			12 months ended—		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Civilian workers	153.4	157.2	157.8	0.7	0.7	0.4	3.7	3.2	2.9
Excluding sales occupations	153.4	157.1	157.8	.7	.8	.4	3.9	3.2	2.9
Industry									
Goods producing ¹	150.5	153.9	155.1	.7	.5	.8	3.6	2.9	3.1
Manufacturing	151.7	155.4	156.5	.7	.6	.7	3.5	3.1	3.2
Service producing ²	154.5	158.4	158.8	.7	.8	.3	3.8	3.3	2.8
Services	157.1	160.7	161.1	.6	1.2	.2	4.0	2.9	2.5
Health services	155.5	159.6	160.9	1.2	.7	.8	4.9	3.8	3.5
Hospitals	155.5	160.3	162.2	1.3	1.1	1.2	5.6	4.4	4.3
Educational services	155.1	159.3	160.1	.3	2.4	.5	3.7	3.0	3.2
Public administration ³	151.6	154.8	155.8	.9	.9	.6	3.8	3.0	2.8
Nonmanufacturing	153.8	157.5	158.0	.8	.7	.3	3.8	3.2	2.7
Occupational group									
White collar	155.6	159.6	160.1	.7	.8	.3	3.6	3.3	2.9
Excluding sales	156.1	160.1	160.7	.6	.9	.4	3.8	3.2	2.9
Professional specialty and technical	155.1	158.0	158.6	.6	1.2	.4	3.7	2.5	2.3
Executive, administrative, and managerial	158.1	163.5	163.8	.9	.6	.2	3.7	4.3	3.6
Administrative support, including clerical	155.7	159.6	160.6	.7	.8	.6	4.1	3.2	3.1
Blue collar	148.5	151.9	152.6	.6	.6	.5	3.9	2.9	2.8
Service	153.0	156.2	156.9	1.2	.7	.4	4.0	3.3	2.5
State and local government	153.7	157.7	158.6	.5	1.8	.6	3.6	3.1	3.2
Industry									
Services	154.2	158.4	159.2	.3	2.2	.5	3.7	3.1	3.2
Excluding schools	154.9	159.1	160.3	1.1	1.1	.8	4.7	3.9	3.5
Health services	155.8	160.5	162.2	1.0	1.1	1.1	4.4	4.1	4.1
Hospitals	155.7	160.6	162.5	1.0	1.1	1.2	4.4	4.2	4.4
Educational services	154.0	158.1	158.9	.3	2.3	.5	3.6	2.9	3.2
Schools	154.1	158.3	159.0	.2	2.4	.4	3.5	2.9	3.2
Elementary and secondary	153.1	157.4	158.1	.2	2.5	.4	3.1	3.0	3.3
Colleges and universities	156.7	160.7	161.6	.1	2.2	.6	4.8	2.7	3.1
Public administration ³	151.6	154.8	155.8	.9	.9	.6	3.8	3.0	2.8
Occupational group									
White collar	153.3	157.4	158.4	.4	1.9	.6	3.6	3.1	3.3
Professional specialty and technical	153.4	157.5	158.4	.3	2.2	.6	3.5	2.9	3.3
Executive, administrative, and managerial	155.1	159.0	160.1	.8	1.4	.7	4.2	3.3	3.2
Administrative support, including clerical	150.9	155.1	156.0	.7	1.5	.6	3.2	3.5	3.4
Blue collar	150.8	154.5	155.1	1.1	1.6	.4	3.9	3.6	2.9
Service	157.4	160.6	161.2	.8	.9	.4	4.1	2.9	2.4

¹ Includes mining, construction, and manufacturing.

² Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; service

industries; and public administration.

³ Includes executive, legislative, judicial, administrative, and regulatory activities of State and local governments, SICs 91 through 96.

Table 6. Employment Cost Index for wages and salaries for private industry workers by industry and occupational group

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for--					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended--			12 months ended--		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Private industry workers	153.3	157.0	157.5	0.8	0.4	0.3	3.8	3.2	2.7
Excluding sales occupations	153.3	157.0	157.5	.7	.6	.3	3.9	3.2	2.7
Industry									
Goods producing ¹	150.5	153.9	155.0	.7	.5	.7	3.7	2.9	3.0
Excluding sales	149.7	153.0	154.0	.7	.5	.7	3.5	2.9	2.9
White collar	153.6	157.5	158.6	.7	.6	.7	3.3	3.2	3.3
Excluding sales	151.7	155.4	156.3	.6	.6	.6	3.1	3.1	3.0
Blue collar	148.4	151.5	152.6	.7	.5	.7	3.7	2.8	2.8
Construction	146.3	149.0	150.2	.8	.5	.8	4.0	2.7	2.7
Manufacturing	151.7	155.4	156.5	.7	.6	.7	3.5	3.1	3.2
White collar	153.3	157.7	158.6	.3	.7	.6	2.7	3.2	3.5
Excluding sales	151.0	155.0	155.9	.3	.7	.6	2.4	3.0	3.2
Blue collar	150.3	153.5	154.7	.8	.5	.8	3.9	3.0	2.9
Durables	152.6	156.0	157.3	.7	.5	.8	3.6	3.0	3.1
Aircraft manufacturing (SIC 3721) ..	158.3	162.5	163.1	1.1	.0	.4	4.4	3.8	3.0
White collar	152.2	155.9	156.2	.9	-.3	.2	4.1	3.3	2.6
Blue collar	167.4	172.2	173.2	1.5	.5	.6	5.1	4.4	3.5
Nondurables	150.2	154.4	155.2	.6	.8	.5	3.3	3.4	3.3
Service producing ²	154.5	158.4	158.6	.8	.4	.1	3.8	3.4	2.7
Excluding sales	155.5	159.3	159.6	.8	.5	.2	4.1	3.3	2.6
White collar	156.5	160.5	160.7	.8	.4	.1	3.7	3.4	2.7
Excluding sales	158.6	162.5	162.8	.9	.6	.2	4.1	3.4	2.6
Blue collar	148.1	151.8	152.0	.4	.5	.1	4.1	2.9	2.6
Service	150.2	153.5	154.1	1.2	.7	.4	3.7	3.4	2.6
Transportation and public utilities	149.2	153.4	154.1	1.7	.9	.5	4.8	4.6	3.3
Transportation	145.7	149.6	150.1	2.2	.7	.3	5.1	4.9	3.0
Public utilities	153.6	158.2	159.3	1.1	1.2	.7	4.4	4.1	3.7
Communications	155.2	159.6	160.7	1.2	1.6	.7	5.3	4.1	3.5
Electric, gas, and sanitary services ..	151.7	156.5	157.4	.9	.6	.6	3.5	4.1	3.8
Wholesale and retail trade	152.1	155.5	155.5	1.0	-.1	.0	3.2	3.3	2.2
Excluding sales	154.6	157.1	157.0	1.0	.0	-.1	3.8	2.6	1.6
Wholesale trade	154.8	160.4	161.0	.5	-.6	.4	2.1	4.1	4.0
Excluding sales	157.9	162.6	163.7	.3	.9	.7	3.1	3.3	3.7
Retail trade	150.7	152.9	152.7	1.3	.1	-.1	3.8	2.8	1.3
General merchandise stores	146.5	150.1	149.2	.5	.8	-.6	3.0	3.0	1.8
Food stores	146.7	150.1	150.3	.7	.8	.1	3.6	3.0	2.5
Finance, insurance, and real estate	156.0	162.4	162.6	.1	.2	.1	2.8	4.2	4.2
Excluding sales	159.1	166.1	167.3	.0	.2	.7	3.2	4.4	5.2
Banking, savings and loan, and other credit agencies	171.7	182.7	183.9	-.9	-.1	.7	3.6	5.5	7.1
Insurance	155.0	159.6	159.1	.9	.6	-.3	2.8	3.9	2.6
Excluding sales	151.2	155.9	155.9	.9	.5	.0	3.2	4.1	3.1
Services	158.2	161.5	161.7	.7	.7	.1	4.2	2.8	2.2
Business services	163.7	164.6	164.8	.6	.4	.1	4.9	1.1	.7
Health services	155.4	159.5	160.7	1.2	.7	.8	4.9	3.8	3.4
Hospitals	155.4	160.2	162.1	1.4	1.0	1.2	5.9	4.5	4.3
Nursing homes	-	-	-	1.1	.8	.9	5.1	4.3	4.1
Educational services	160.6	165.2	166.5	.6	2.5	.8	4.1	3.5	3.7
Colleges and universities	159.6	163.1	164.3	.8	2.0	.7	4.4	3.0	2.9

See footnotes at end of table.

Table 6. Employment Cost Index for wages and salaries for private industry workers by industry and occupational group — Continued

(Not seasonally adjusted data)

Industry and occupational group	Indexes (June 1989=100)			Percent changes for—					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended—			12 months ended—		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Industry—Continued									
Nonmanufacturing industries	153.5	157.2	157.5	0.9	0.4	0.2	3.8	3.3	2.6
White collar	156.4	160.2	160.5	.9	.4	.2	3.9	3.4	2.6
Excluding sales	158.3	162.1	162.5	.9	.5	.2	4.2	3.3	2.7
Blue collar	146.4	149.8	150.2	.4	.5	.3	3.9	2.7	2.6
Service	150.1	153.4	154.0	1.3	.7	.4	3.7	3.5	2.6
Occupational group									
White collar	156.1	160.0	160.4	.8	.4	.3	3.7	3.4	2.8
Excluding sales	156.9	160.8	161.3	.8	.5	.3	3.8	3.3	2.8
Professional specialty and technical	155.9	158.2	158.5	.7	.5	.2	3.8	2.2	1.7
Executive, administrative, and managerial	158.6	164.3	164.5	.9	.4	.1	3.7	4.5	3.7
Sales	152.6	156.9	156.8	.9	-.1	-.1	2.6	3.8	2.8
Administrative support, including clerical	156.5	160.3	161.3	.8	.7	.6	4.3	3.2	3.1
Blue collar	148.3	151.7	152.4	.5	.5	.5	3.9	2.8	2.8
Precision production, craft, and repair	148.4	151.8	152.3	.5	.5	.3	3.9	2.8	2.6
Machine operators, assemblers, and inspectors	149.0	152.0	153.2	.6	.3	.8	3.7	2.6	2.8
Transportation and material moving	142.8	146.3	146.9	.5	.8	.4	3.8	3.0	2.9
Handlers, equipment cleaners, helpers, and laborers	152.4	156.0	157.2	.9	.6	.8	4.2	3.3	3.1
Service	150.6	153.9	154.5	1.3	.7	.4	3.9	3.5	2.6
Production and nonsupervisory occupations³	151.5	154.7	155.2	.8	.5	.3	3.8	2.9	2.4

¹ Includes mining, construction, and manufacturing.

² Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service industries.

³ This series has the same industry and occupational coverage as the

Hourly Earnings Index, which was discontinued in January 1989.

NOTE: Dashes indicate data not available.

Table 7. Employment Cost Index for wages and salaries for private industry workers by bargaining status, region, and area

(Not seasonally adjusted data)

Bargaining status, region, and area	Indexes (June 1989=100)			Percent changes for--					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended--			12 months ended--		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Bargaining status									
Union	147.4	151.3	152.5	1.6	1.0	0.8	4.4	4.3	3.5
Blue-collar occupations	144.7	148.4	149.6	1.0	.8	.8	4.0	3.6	3.4
Goods-producing industries ¹	146.3	150.0	151.2	.7	.9	.8	3.5	3.2	3.3
Service-producing industries ²	148.9	152.9	154.1	2.4	1.0	.8	5.2	5.2	3.5
Manufacturing	148.0	151.6	153.1	.9	.9	1.0	3.8	3.3	3.4
Blue-collar occupations	147.0	150.3	151.8	.8	.9	1.0	3.7	3.1	3.3
Nonmanufacturing	147.1	151.1	152.1	1.9	1.0	.7	4.8	4.7	3.4
Nonunion	154.4	158.1	158.5	.7	.4	.3	3.6	3.1	2.7
Blue-collar occupations	150.5	153.7	154.2	.3	.4	.3	3.9	2.5	2.5
Goods-producing industries ¹	152.1	155.5	156.6	.7	.5	.7	3.6	2.9	3.0
Service-producing industries ²	155.1	158.9	159.0	.6	.4	.1	3.7	3.1	2.5
Manufacturing	153.1	156.8	157.8	.6	.4	.6	3.4	3.0	3.1
Blue-collar occupations	152.6	155.7	156.8	.9	.3	.7	4.1	2.9	2.8
Nonmanufacturing	154.4	158.1	158.3	.7	.4	.1	3.7	3.1	2.5
Region³									
Northeast	151.7	155.1	155.7	.7	.1	.4	3.9	3.0	2.6
South	151.2	154.7	154.6	.7	.7	-.1	3.3	3.0	2.2
Midwest	154.7	159.2	160.2	.7	.4	.6	3.4	3.6	3.6
West	156.0	159.3	160.1	1.1	.4	.5	4.6	3.2	2.6
Area									
Metropolitan	153.7	157.4	157.9	.9	.4	.3	3.9	3.3	2.7
Other	150.5	153.8	154.8	.5	.8	.7	3.1	2.7	2.9

¹ Includes mining, construction, and manufacturing.

² Includes transportation, communication, and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service industries.

³ The regional coverage is as follows: Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; South: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia,

and West Virginia; Midwest: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and West: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE: The indexes for these series are not strictly comparable to those for the aggregate, occupation, and industry series.

Table 8. Employment Cost Index for benefits for civilian, State and local government, and private industry workers by industry, occupational group, and bargaining status

(Not seasonally adjusted data)

Industry, occupational group, and bargaining status	Indexes (June 1989=100)			Percent changes for--					
	Dec. 2001	Sep. 2002	Dec. 2002	3 months ended--			12 months ended--		
				Dec. 2001	Sep. 2002	Dec. 2002	Dec. 2001	Sep. 2002	Dec. 2002
Civilian workers	165.1	171.7	173.3	0.9	1.4	0.9	5.2	4.9	5.0
State and local government	158.4	165.8	168.2	.7	3.2	1.4	5.5	5.4	6.2
Private industry	166.7	173.1	174.6	.9	.9	.9	5.1	4.8	4.7
Industry									
Goods producing ¹	162.6	168.8	171.0	1.1	.8	1.3	4.1	5.0	5.2
Service producing ²	168.4	174.9	175.9	.8	.9	.6	5.6	4.7	4.5
Manufacturing	160.4	166.8	168.9	1.2	.8	1.3	3.6	5.2	5.3
Aircraft manufacturing (SIC 3721)	174.4	182.6	192.4	3.7	.0	5.4	6.9	8.6	10.3
White collar	175.0	182.2	187.0	3.6	-.2	2.6	7.5	7.9	6.9
Blue collar	172.4	181.8	199.3	3.8	.2	9.6	6.0	9.5	15.6
Nonmanufacturing	168.8	175.2	176.3	.8	1.0	.6	5.7	4.7	4.4
Occupational group									
White collar	171.2	177.2	178.5	1.0	.6	.7	6.0	4.5	4.3
Blue collar	159.2	166.2	167.8	.6	1.3	1.0	3.3	5.0	5.4
Service	166.0	173.4	174.9	1.7	1.8	.9	6.1	6.3	5.4
Bargaining status									
Union	163.4	170.8	172.7	.9	1.6	1.1	3.7	5.5	5.7
Nonunion	167.2	173.4	174.7	.8	.8	.7	5.4	4.6	4.5

¹ Includes mining, construction, and manufacturing.

² Includes transportation, communication, and public utilities;

wholesale and retail trade; finance, insurance, and real estate; and service industries.

EXPLANATORY NOTES

The Employment Cost Index (ECI) is a measure of the change in the cost of labor, free from the influence of employment shifts among occupations and industries. The compensation series includes changes in wages and salaries and employer costs for employee benefits. The wage and salary series and the benefit cost series provide the change for the two components of compensation.

Wages and salaries are defined as the hourly straight-time wage rate or, for workers not paid on an hourly basis, straight-time earnings divided by the corresponding hours. Straight-time wage and salary rates are total earnings before payroll deductions, excluding premium pay for overtime and for work on weekends and holidays, shift differentials, and nonproduction bonuses such as lump-sum payments provided in lieu of wage increases. Production bonuses, incentive earnings, commission payments, and cost-of-living adjustments are included in straight-time wage and salary rates.

Benefits covered by the ECI are: Paid leave--vacations, holidays, sick leave, and other leave; supplemental pay--premium pay for work in addition to the regular work schedule (such as overtime, weekends, and holidays), shift differentials, and nonproduction bonuses (such as referral bonuses and lump-sum payments provided in lieu of wage increases); insurance benefits--life, health, short-term disability, and long-term disability; retirement and savings benefits--defined benefit and defined contribution plans; legally required benefits--social security, medicare, Federal and State unemployment insurance, and workers' compensation; and other benefits--severance pay and supplemental unemployment plans.

The ECI provides data for the civilian economy, which includes the total private nonfarm economy excluding households and the public sector excluding the Federal government. The private industry series and the State and local government series provide data for the two sectors separately.

Data for this quarter were collected from a probability sample of approximately 28,300 occupational observations within about 6,950 sample establishments in private industry and approximately 3,700 occupations within about 800 sample establishments in State and local governments. Data are collected for the pay period including the 12th day of the survey months of March, June, September, and December.

The sampled establishments are classified by industry categories based on the 1987 Standard Industrial Classification (SIC), as defined by the U.S. Office of Management and Budget. Details on the sample design are included in the bulletin, Employment Cost Indexes, 1975-99, (Bulletin 2532). Within an establishment, specific job categories are selected and classified into about 500 occupational classifications according to the 1990 Census of Population. Individual occupations are combined into broader occupational groups. Fixed employment weights are used each quarter to calculate the most aggregate series -- civilian, private, and State and local government. These fixed weights are also used to derive all of the industry and occupation series indexes. Since March 1995, 1990 employment counts, primarily from the Bureau's Occupational Employment Statistics survey, have been used. For more information on these topics, see the articles, "Introducing New Weights for the Employment Cost Index," in the June 1985 issue of the Monthly Labor Review and "Introducing 1990 Weights for the Employment Cost Index" in the June 1995 issue of Compensation and Working Conditions.

For the series based on bargaining status, region, and area size, employment data are not available. The employment weights are reallocated within these series each quarter based on the current ECI sample. The indexes for these series, consequently, are not strictly comparable to those for the aggregate, industry, and occupation series. A fuller explanation of the calculation of index numbers appears in an article, "Estimation Procedures for the Employment Cost Index," in the May 1982 issue of the Monthly Labor Review. Beginning with the March 1990 ECI release, indexes were rebased to June 1989=100. A description of the rebasing is included in the article "Employment Cost Index Rebased to June 1989," in the April 1990 issue of the Monthly Labor Review.

Beginning with the December 1990 ECI release, seasonally adjusted data are available for selected ECI series. Seasonal adjustment removes the effects of events that follow a more or less regular pattern each year. These adjustments make nonseasonal patterns easier to identify. For more information on the methodology used to seasonally adjust ECI series, see the bulletin, Employment Cost Indexes, 1975-99, (Bulletin 2532). The seasonal adjustment factors are recalculated once a year. The March release contains data reflecting the

newly updated seasonal adjustment factors. The historical data for the last five years are then revised based on the newly estimated factors. The new seasonal factors for 2002 and revised seasonally adjusted indexes for the past five years are available on the Internet site (<http://www.bls.gov/ncs/ect/home.htm>) or upon request.

The ECI sample is rotated over approximately five years, which makes the sample more representative and reduces respondent burden. The sample is replaced on a cross-area, cross-industry basis.

Because the ECI is a sample survey, it is subject to sampling errors. Sampling errors are differences that occur between the results computed from a sample of observations and those computed from all observations in the population. The estimates derived from different samples selected using the same sample design may differ from one other. A measure of the variation among these differing estimates is the standard error. It can be used to measure the precision with which an estimate from a particular sample approximates the expected result of all possible samples. The chances are about 68 out of 100 that an estimate from the survey differs from a complete population figure by less than the standard error. The chances are about 90 out of 100 that this difference would be less than 1.6 times the standard error. The statements of comparisons appearing in this publication are significant at a 1.6 standard error level or better, unless otherwise indicated. This means that for differences cited, the estimated difference is greater than 1.6 times the standard error of the difference.

Because standard errors vary from quarter to quarter, the ECI uses a five-year moving average of standard errors to evaluate published series. To assist users in ascertaining the reliability of series, the five-year moving average of standard errors for all estimates (excluding seasonally adjusted series) will be available on the Internet site (<http://www.bls.gov/ncs/ect/home.htm>) shortly after publication of the news release.

When determining data to be used in contract negotiations, it is important to note that differences by bargaining status may be due to factors other than union status, such as occupational and industry mix. For example, union occupations tend to be concentrated in blue-collar occupations within manufacturing industries. Thus, differences between blue-collar and white-collar pay or differences in manufacturing versus nonmanufacturing industries could explain such differences. An important consideration when choosing a series for escalation is the number of workers covered. Series with smaller numbers of workers may have larger sampling errors or be dominated by a smaller number of employers. For more information, see the web site: (<http://www.bls.gov/ect/escalator.htm>.)

More detailed information on the ECI is available from several sources. These include an historical bulletin--Employment Cost Indexes, 1975-99, (Bulletin 2532), a chapter, "National Compensation Measures," in the BLS Handbook of Methods (Bulletin 2490), and several articles published in the Monthly Labor Review and Compensation and Working Conditions. The bulletin is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or Bureau of Labor Statistics, Publications Sales Center, P.O. Box 2145, Chicago, Illinois 60690, (312) 353-1880. Reprints of the articles and other descriptive pieces are available upon request by calling (202) 691-6199 or sending e-mail to (ocltinfo@bls.gov). Current and historical data are available at the web site: (<http://www.bls.gov/ncs/ect/home.htm>).

The costs per hour worked of compensation components, based on data from the ECI, were recently published in a separate news release titled "Employer Costs for Employee Compensation--September 2002." Historical data and related articles are included in the bulletin, Employer Costs for Employee Compensation, 1986-99, (Bulletin 2526). An annual historical summary from March 1986 through March 2002 is also available on the Internet site (<http://www.bls.gov/ncs/ect/home.htm>) or upon request. Data are now available on a quarterly basis beginning with June 2002 data. The December 2002 release is expected to be published in March 2003. The cost levels are calculated with current employment weights, rather than the fixed 1990 weights used in computing the ECI. Therefore, year-to-year changes in the cost levels usually differ from those in the ECI.

Information in this release will be made available to sensory impaired individuals upon request. Voice phone: (202) 691-5200; Federal Relay Service Number: 1-800-877-8339.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 – 447**

A RESOLUTION AMENDING THE FY 2003/2004 OPERATING BUDGET TO RECOGNIZE \$533,229 IN INCREASED REVENUE AND APPROPRIATE \$344,152 TO THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT FOR ADDITIONAL STAFFING.

WHEREAS, on June 2, and June 23, 2003, the Council Finance Committee recommended increases in certain development user fees, and corresponding increases in staffing for service delivery in the Community and Economic Development Department, and

WHEREAS, at the City Council meeting of August 12, 2003, the City Council approved an increase in certain development user fees and adopted new development user fees, and

WHEREAS, certain development user fees are collected for services provided by the Community and Economic Development Department, and

WHEREAS, the increase in these fees will result in an increase in revenue of approximately \$533,229 for FY03/04, and

WHEREAS, the revenue increase will allow for an increase in service delivery and the addition of new positions, and

WHEREAS, the Council has approved the following seven new positions within the Community and Economic Development Department: 1 Senior Planner, 1 Associate Planner, 1 Planning Technician II, 1 Administrative Office Assistant II, 1 Supervising Building Inspector, 1, 1 Building Inspector II, and 1 Administrative Office Assistant II, and

WHEREAS, the addition of these positions will result in an increase in expenditures of approximately \$344,152 for FY03/04.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/2004 Annual Budget is hereby amended to recognize additional revenue of \$533,229 and appropriate \$344,152 to the Community and Economic Development Department and that the budget accounts be amended as follows:

0100-140-1401-0182	Salaries	\$123,112
0100-140-1401-0192	Benefits	21,734
0100-140-1401-0260	Miscellaneous	6,375
0100-140-1430-0182	Salaries	145,630
0100-140-1430-0192	Benefits	31,267
0100-140-1430-0260	Miscellaneous	16,034
0100-140-1430-4001	Building Fee (Inc.)	109,500
0100-140-1430-4002	Building Inspection Fee	64,125
0100-140-1401-4007	Plan Check Fee	36,375
0100-140-1430-xxxx	General Plan Maint. Fee	74,775
0100-140-1430-4008	Zoning Fee	100,000
0100-140-1430-4009	Environmental Impact Fee	22,000
0100-140-1430-4010	Plot Plan Review Fee	21,454
0100-140-1430-4011	Subdivision App. Fee	100,000
0100-140-1430-4058	General Plan Amendment Fee	5,000

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 August, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 448**

**RESOLUTION RECOMMENDING THAT THE STANISLAUS COUNTY
BOARD OF SUPERVISORS REPAY THE FINK ROAD LANDFILL
ENTERPRISE FUND.**


NOW, THEREFORE, BE IT RESOLVED that the Modesto City Council hereby recommends that the Stanislaus County Board of Supervisors repay the Fink Road Landfill Enterprise Fund as recommended by the Stanislaus County Grand Jury by either lowering tipping fees at the landfill or by constructing a materials recovery facility at the landfill to enhance waste reduction efforts on the west side and to conserve landfill capacity for all of the County's residents, or by some other beneficial project directly related to landfill operations. Furthermore, the Board of Supervisors is encouraged to reduce the siting element on file with the State of California to 129 acres.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Frohman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

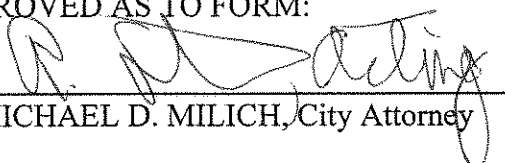
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-449**

A RESOLUTION GRANTING AN APPEAL FILED BY DAVID ROMANO ON BEHALF OF AGRESTI ENTERPRISES TO A PLANNING COMMISSION DECISION APPROVING A VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED ON THE NORTH SIDE OF GLENN AVENUE EAST OF CROWS LANDING ROAD (MARVIN L. OATES)

WHEREAS, the vesting tentative parcel map of property located on the north side of Glenn Avenue east of Crows Landing Road was filed in the office of the Secretary of the Planning Commission on March 6, 2003, and was accepted for filing and deemed complete on April 4, 2003, in accordance with the provisions of Section 4-4.502 of the Modesto Municipal Code, and

WHEREAS, copies of said vesting tentative parcel map have been sent to the Ceres School and Modesto City Schools Districts, Turlock Irrigation District, the local utility companies, and the City Engineering and Transportation Department, and

WHEREAS, City services, including sewer and water facilities are available, and

WHEREAS, a public hearing was held by the Planning Commission on May 19, 2003, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, at said hearing the Planning Commission, by Resolution No. 2003-28 found and determined that the vesting parcel map as sought by Marvin L. Oates Trust, to divide a 12.98+/- acre parcel into an 8.83-acre parcel and 4.16 acre parcel located on the north side of Glenn Avenue east of Crows Landing Road is consistent with the General Plan of the City of Modesto and the Subdivision Map Act of the State of California and should be approved, and

WHEREAS, this parcel map is exempt from CEQA pursuant to Section 15315 of the CEQA Guidelines which exempts parcel maps of four or fewer parcels which are consistent with the General Plan, and

WHEREAS, by letter dated June 3, 2002, David Romano filed an appeal to the decision of the Planning Commission with the City Clerk, on behalf of Agresti's family interests in property on the south side of Glenn Avenue, on which a building permit is pending for a commercial development, and

WHEREAS, the appeal is predicated on a City requirement for off-site right-of-way condemnation and right-of-way improvement to the southeast corner of the intersection of Crows Landing Road and Glenn Avenue, imposed on the Agresti interests pursuant to the building permit, which right-of-way acquisition and improvement cost was not being shared by the Oates Trust as part of the parcel map procedure, and

WHEREAS, said appeal was set for a public hearing before the City Council on Tuesday, July 1, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and was thereafter continued for hearing to July 22, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, said appeal was further continued to August 12, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time evidence both oral and documentary were received and considered, and

WHEREAS, after hearing evidence both oral and documentary, the Council of the City of Modesto found and determined that the appeal of David Romano on behalf of

Agresti Enterprises to the decision of the Planning Commission approving the vesting tentative parcel map of property located on the north side of Glenn Avenue east of Crows Landing Road should be granted for the following reason and the decision of the Planning Commission should be overruled:

Development of this parcel on Glenn Avenue east of Crows Landing Road will have the ability to increase traffic at the Crows Landing Road/Glenn Avenue intersection and therefore would benefit from the ultimate improvement of that intersection. Approval of the parcel map should be conditioned to include the participation in the acquisition of right-of-way and intersection improvements to City Standards,

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

That improvement of this intersection provides a benefit to the remaining undeveloped land on Glenn Avenue and would remove an impediment to development.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the appeal of David Romano on behalf of Agresti Enterprises to the decision of the Planning Commission approving the vesting tentative parcel map of property located on the north side of Glenn Avenue east of Crows Landing Road is hereby granted and the decision of the Planning Commission is hereby overruled for the reason stated above.

BE IT FURTHER RESOLVED that the vesting tentative parcel map of property located on the north side of Glenn Avenue east of Crows Landing Road which was accepted for filing in the office of the Secretary of the Planning Commission on April 4,

2003, be and it is hereby approved as submitted and as shown in red on the face of the map and subject to the following conditions:

1. Public utility easements shall be dedicated as required by utility companies prior to or concurrently with the parcel map recordation.
2. Ten-foot-wide public utility easements, including two-foot widening of the planting easement located within the ten-foot-wide public utility easements, as required by the Parks, Recreation and Neighborhood Director.
3. Street improvements shall be constructed in accordance to the City of Modesto Standard Specifications as required by the Engineering and Transportation Director.
4. Improvement plans for required improvements shall be prepared by a registered civil engineer and submitted for approval by the Engineering and Transportation Director. All improvements shall be constructed in accordance with the approved plans.
5. Street improvements shall be completed as required by the Municipal Code in conjunction with property development.
6. 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.

7. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction on this parcel map shall be based on the rates in effect at time of issuance of the building permit.
8. Prior to issuance of a building permit, Developer shall execute an agreement with City to participate in the “Shared Costs” of the acquisition of the property located at the southeast corner of Crows Landing Road and Glenn Avenue (APN: 086-012-026). “Shared Costs” are defined as those costs incurred through a condemnation acquisition that are above and beyond the following:
 1. Fair market value of the property to be condemned;
 2. The cost of removing the existing building (if not included in fair market value);
 3. The value of required right-of-way dedication (if not included in fair market value); and
 4. Cost of installing street improvements, including curb, gutter and sidewalk, to ultimate width;
 5. Costs to relocate the traffic signal, if applicable.

The agreement shall provide that developer is responsible to pay 25% of "Shared Costs" up to a maximum of \$50,000.00, and shall be in a form that is reasonably acceptable to developer and approved by the City Attorney.


Developer satisfies its full obligation towards widening the aforementioned intersection by executing said agreement and paying its share of "shared costs."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

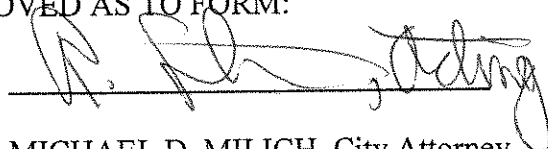
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-450**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181) AS AMENDED BY THE SUPPLEMENTAL EIR: DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND BERBERIAN PROPERTIES, LLC FOR THE VILLAGE ONE COMMERCIAL CENTER LOCATED IN THE VILLAGE ONE SPECIFIC PLAN, TO LOCK THE CAPITAL FACILITIES FEES AND PUBLIC FACILITIES FEES AND VEST THE RIGHT TO DEVELOP IN ACCORDANCE WITH CURRENT FEES AND STANDARDS.

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, Berberian Properties, LLC has applied for a Development Agreement for the Village One Commercial Center located in the Village One Specific Plan, to lock the Capital Facilities Fees and Public Facilities Fees and vest the right to develop in accordance with current fees and standards, 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, the City's Community & Economic Development Department by Environmental Assessment Initial Study No. EA/C&ED 2003-61 reviewed the proposed project to determine whether the project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and made the determination that the 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 are required, and that, therefore, the proposed project is within the scope of the project covered by the EIR, and

WHEREAS, the proposed Development Agreement serves only to vest current fees and standards and make no other changes to the scope or impacts of the project, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on August 12, 2003, 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 Environmental Assessment No. EA/C&ED 2003-61, 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 for the proposed project, makes the following findings:

1. As per Section 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Village One Specific Plan Program EIR (SCH No. 90020181), as amended by the Village One Supplemental 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 will require major revisions of the Program EIR.

3. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Program EIR.
4. No new information of substantial importance, which was not known and could not have been known at the time the Program EIR was certified as complete, has become available.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-61, provides the substantial evidence to support findings 1-4.


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 approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 fo the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

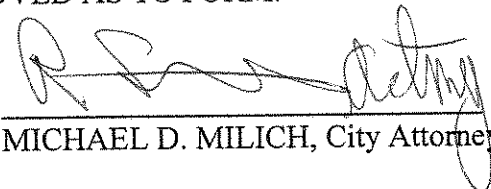
By: 
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"
INITIAL STUDY
EA/C&ED NO. 2003-61

**Determination:
Project within the Scope of the
Village One Specific Plan
Program Environmental Impact Report
for the
Berberian Properties Development Agreement**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: George Osner
209/577-5267

Prepared by:

Brad Wall, Associate Planner
City of Modesto
Community & Economic Development Department
209/577-5267

July 10, 2003

WRITTEN CHECKLIST

EA/C&ED No. 2003-61

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 Village Ranch Vesting Tentative Subdivision Map and Multi-Family Final Development Plan (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: Berberian Properties Development Agreement
2. Lead Agency Name and Address: City of Modesto
3. Contact Person and Phone Number: George Osner, Planning Manager
City of Modesto Community & Economic
Development Department
209/577-5267

4. **Project Location:** SE Corner of Floyd & Roselle Avenues
Modesto, California
5. **Project Sponsor's Name and Address:** David O. Romano / Berberian Properties
3501 Coffee Road, Suite 1
Modesto CA 95355
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 subject project is an application for a Development Agreement between the applicant and the City
9. **Surrounding Land Uses and Setting:** The project site is surrounded by residential development.
10. **Other Public Agencies' Approval Required:** None.

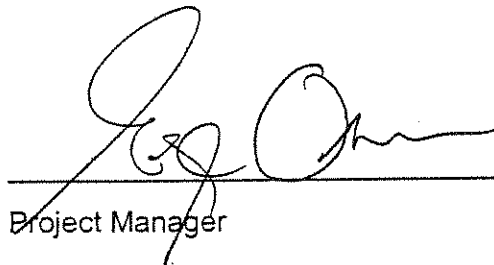
III. DETERMINATION:

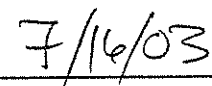
Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:

- (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 Berberian Properties Development Agreement is within the scope of the Village One Program EIR.


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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 projects. There would be no impact. No mitigation is required.

- c. The Village One Specific Plan program EIR found that development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed 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 project 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 Agreement 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 development 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 Development Agreement 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 Development Agreement 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 project would not change the level of construction emissions. There would be no additional impact. No mitigation is required.

e. The proposed Development Agreement 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The proposed Development Agreement would not change project area boundaries. There would be no additional impact. 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 project 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 project 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 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 2. Strong seismic groundshaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 3. Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 4. Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 Development Agreement 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	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 project 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 Development Agreement would not change construction, land use, or other physical attributes

of Plan area buildout. 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
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VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

a.	Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 project 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
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IX. LAND USE AND PLANNING. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 development 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 would result in a substantial temporary increase in ambient noise levels for nearby residences. 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
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Displace a substantial number of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 proposed 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.

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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.

Mitigation measures related to the residential portion of Precise Plan No. 20, sub-area C, from the 1994 Village One Specific Plan Supplement to the Program EIR have been incorporated into the Precise Plan for PPA No. 210, sub-area C.

The following measure will be incorporated into the Final Development Plan approval for the commercial area, as appropriate:

"Submittals proposing elevated parking structures in the Village Center area must conform to village Center Design Guidelines: height limitation of 35 feet, perimeter landscaping, parking area landscaping, and street landscaping to screen structures from adjacent residential areas."

No further mitigation actions are required with this current proposal.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-451**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
RICARDO CORDOVA FROM THE CITIZENS HOUSING & COMMUNITY
DEVELOPMENT COMMITTEE AND THE HOUSING REHABILITATION
LOAN COMMITTEE (ALTERNATE)**

WHEREAS, RICARDO CORDOVA was appointed a member of the Citizens Housing & Community Development Committee and the Housing Rehabilitation Loan Committee (alternate) on December 6, 1994, and

WHEREAS, RICARDO CORDOVA has tendered his resignation from the aforementioned committees, effective April 19, 2003, and

WHEREAS, RICARDO CORDOVA 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 RICARDO CORDOVA from the Citizens Housing & Community Development Committee and 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 RICARDO CORDOVA 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 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-452**

**A RESOLUTION AUTHORIZING THE UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION
(TSA) TO USE THE CITY OF MODESTO LOGO ON AN ORGANIZATIONAL
COIN**

WHEREAS, on August 20, 2003, the director of the TSA for the San Jose, Monterey and Modesto airports requested permission to use the City of Modesto logo on an official organizational "challenge" coin, and

WHEREAS, organizational, or "challenge", coins have been used by the United States military for several years as symbols of recognition, unity and pride, and

WHEREAS, an example of the organizational coin is reflected on **Attachment "A"**.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Federal Homeland Security TSA to use the City of Modesto logo on its official organizational ("challenge") coin for non-commercial purposes at no cost to 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 September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


Michael D. Milich, City Attorney



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-453**

**A RESOLUTION APPROVING AN AMENDMENT TO A PURCHASE
AGREEMENT WITH THE GILLIG CORPORATION**

WHEREAS the City of Modesto entered into a contract dated November 6, 2002, with the Gillig Corporation ("Gillig") for the purchase of fourteen (14) transit buses at a cost of Four Million, Three Hundred Twenty-three Thousand, Three Hundred Sixty and No One-hundredths Dollars (\$4,323,360.00), and

WHEREAS, Gillig inadvertently omitted from the original sale price the amount of Five Thousand, Six Hundred Seventy and No One-hundredths Dollars (\$5,670.00) as to each bus purchased for equipment necessary for compliance with the Americans with Disabilities Act (ADA), and

WHEREAS, the City wishes to add equipment to the buses that was not part of the original agreement, said equipment to cost Five Thousand, Thirty and No One-hundredths Dollars (\$5,030.00), plus sales tax, and

WHEREAS, the City desires to purchase extended engine and transmission warranties in the amount of Three Thousand, One Hundred Fifty and No One-hundredths Dollars (\$3,150.00) per bus for extended engine warranties and Two Thousand, Six Hundred and No One-hundredths Dollars (\$2,600.00) per bus for extended transmission warranties, and

WHEREAS, by an agenda report to the City Council dated September 5, 2003, from the Engineering and Transportation Director, City staff recommended that the Council approve an agreement amendment to increase the price paid to Gillig to cover the additional items referenced above,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the original agreement to increase the total price of the original agreement to Four Million, Four Hundred Ninety-four Thousand, Four Hundred Eighty Six and No One-hundredths Dollars (\$4,494,486.00) to fully cover the cost of the ADA equipment, the additional equipment City wishes to add to the buses, and for the extended warranties the City wishes to add to the buses.

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 September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-454**

**A RESOLUTION APPROVING THE PURCHASE OF A VAN FROM CREATIVE
BUS SALES CHINO CA., AT AN APPROXIMATE COST OF \$71,317.68 USING
CITY OF CERES FUNDS, FOR USE IN CERES' FIXED-ROUTE BUS SERVICE**

WHEREAS, the City of Ceres received Congestion Mitigation and Air Quality (CMAQ) funds for the purchase of a van for its transit service, and

WHEREAS, the City of Ceres is not certified by the Federal Transit Administration (FTA) to make purchases with FTA funds, and

WHEREAS, the City of Modesto is certified by the FTA to make purchases with FTA funds, and

WHEREAS, the City of Modesto wishes to assist the City of Ceres with its fixed-route transit service to ensure its success, and

WHEREAS, the Economic Development Committee met on July 7, 2003, and supported the recommendation of City staff to enter into an agreement with the City of Ceres to purchase a van on Ceres' behalf and lease it back to Ceres at no cost, and

WHEREAS, on August 6, 2003, the City Council approved an agreement with the City of Ceres to purchase a van on Ceres' behalf and lease it back to Ceres at no cost, and

WHEREAS, by an agenda report to the City Council dated August 15, 2003, from the Engineering and Transportation Director, City staff recommended that the Council approve the purchase of a van from Creative Bus Sales in the amount of \$71,317.68

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a purchase of a van from Creative Bus Sales of Chino, CA, in the amount of approximately \$71,317.68 using City of Ceres funds, for use in Ceres' fixed-route bus service.

BE IT FURTHER RESOLVED that the Purchasing Supervisor, or his designee, is hereby authorized to issue a purchase order for said van.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-455**

A RESOLUTION APPROVING AN AMENDMENT TO A LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKYTREK AVIATION, THAT ALLOWS A ONE-YEAR SUSPENSION OF A 5% SUBLEASE FEE OF GROSS RENTS RECEIVED THAT SKY TREK PAYS TO CITY, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE LEASE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, Modesto Executive Air Charter, dba SkyTrek Aviation, is a tenant of the City at Modesto City-County Airport, and

WHEREAS, SkyTrek Aviation has a long-term ground lease that contains a clause that requires them to pay 5% of all rents received from its tenants to the City, and

WHEREAS, SkyTrek Aviation petitioned the City to eliminate the 5% fee stating that the requirement is unfair and that business has been lost because they are including the surcharge in their monthly rental rate, and

WHEREAS, the Economic Development Committee considered SkyTrek Aviation's request at their May 12, 2003 meeting and directed staff to negotiate a short-term (one-year) suspension or another term based on occupancy levels that could be approved by Council, and

WHEREAS, the Economic Development Committee approved the proposed amendment to the lease agreement at their July 7, 2003 meeting that allows for a one-year suspension of the 5% fee Sky Trek Aviation pays to the City, and

WHEREAS, the amendment to the agreement has been executed by officers of SkyTrek Aviation and returned to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to the lease agreement with Modesto Executive Air Charter, dba SkyTrek Aviation, allowing a one-year (June 1, 2003 to May 31, 2004) suspension on the 5% sublease fee that SkyTrek Aviation pays to the City of Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003 by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carried and the resolution was adopted by the following vote.

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO 2003 –456**

**A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE
CITY OF MODESTO AND HAROLD LANG FOR AN OFFICE IN THE
AIRPORT'S OLD ADMINISTRATION BUILDING**

WHEREAS, vacant office space is available to rent in the old Administration Building at Modesto City-County Airport, and

WHEREAS, Harold Lang, an individual and owner of Harry's Heating and Air Conditioning, wishes to rent a vacant office in the airport's old administration building from which he can schedule service calls and prepare billing statements, and

WHEREAS, the lease agreement is for one year, and is expected to increase revenues in the Airport Enterprise Fund by approximately \$1,764 a year, and

WHEREAS, the Transportation Policy Committee in 2002 was in support of the last non-aviation user office lease submitted and that user is still a tenant in the airport's old administration building, and

WHEREAS, the City Council was in agreement with the Transportation Policy Committee's recommendation and approved a lease for a non-aviation tenant,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an office lease with Harold Lang for the purpose of scheduling business appointments and other general office purposes.

BE IT FURTHER RESOLVED, the City Manager or his designee is authorized to execute the lease agreement on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September 2003 by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-457**

**A RESOLUTION AWARDED THE BID AND APPROVING A \$1,064,995
CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED
“RUNWAY 10L-28R PAVEMENT IMPROVEMENTS AND RUNWAY LIGHT
FIXTURE REPLACEMENT,” AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT**

WHEREAS, the bids received for the RUNWAY 10L-28R PAVEMENT
IMPROVEMENTS AND RUNWAY LIGHT FIXTURE REPLACEMENT project were
opened at 11:00 a.m. on July 1, 2003 and later tabulated by the Engineering and
Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that
the bid of \$1,064,995.00 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 accepts the bid of \$1,064,995.00, and hereby awards George Reed, Inc. the
contract titled “RUNWAY 10L-28R PAVEMENT IMPROVEMENTS AND RUNWAY
LIGHT FIXTURE 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 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-458**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO
RECOGNIZE REVENUE FROM A FEDERAL AVIATION ADMINISTRATION
GRANT AND CITY MATCH TO THE GRANT IN THE AMOUNT OF \$1,100,000
TO 6320-440-N020**

WHEREAS, the bids received for the RUNWAY 10L-28R PAVEMENT IMPROVEMENTS AND RUNWAY LIGHT FIXTURE REPLACEMENT project were opened at 11:00 a.m. on July 1, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the bid of \$1,064,995.00 be accepted as the lowest responsible bid and the Finance Department has determined that there is \$690,000.00 available for this project in the Capital Improvement Program, and

WHEREAS, the need for \$528,053.00 to construct the improvements for the Runway 10L-28R Pavement Improvement project has been identified, and

WHEREAS, the City of Modesto has received a Grant from the Federal Aviation Administration in the amount of \$1,000,000 for this project making an additional \$1,100,000 available for the project and is to be paid from 6320-440-N020,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Budget by an additional \$1,100,000, which includes \$1,000,000 in revenue from the Federal Aviation Administration and \$100,000 of City match to 6320-440-N020.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary action to amend the Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-459**

**A RESOLUTION SUMMARILY VACATING AND ABANDONING A 10-FOOT
PUBLIC UTILITY EASEMENT LOCATED BETWEEN 1901 AND 1925 WEST
ORANGEBURG AVENUE IN THE CITY OF MODESTO**

WHEREAS, Chapter 4, Part 3 of Division 9, Section 8330, et seq of the California Streets and Highway Code authorizes a city council, by resolution, to summarily vacate public service easements where the easement has been superseded by relocation and there are no other public facilities located within the easement, and

WHEREAS, the City of Modesto has received a request from STEVEN PIETERS, real estate manager, of ESA Services, Inc., on behalf of Extended Stay America, to abandon a 10-foot Public Utility Easement located between 1901 and 1925 West Orangeburg Avenue, and

WHEREAS, this easement was dedicated to the City of Modesto on a parcel map that created these two parcels, and

WHEREAS, when the public utilities constructed their facilities they did not use this easement, and the utilities were constructed along the frontage of the parcels, and

WHEREAS, said easement referred to above on the real property located between 1901 and 1925 West Orangeburg Avenue in the City of Modesto is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference, and

WHEREAS, the Engineering and Transportation Department has contacted the Operations and Maintenance Department, Community and Economic Development Department, and all public utilities and none of these agencies have any objection to the abandonment, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The vacation of this easement is made pursuant to Chapter 4, Part 3 of Division 9, Section 8333(c) of the California Streets and Highways Code.

2. The use of the property described in **Exhibit "A"**, attached hereto, is a 10-foot public utility easement located between 1901 and 1925 West Orangeburg Avenue in the City of Modesto, which is more particularly described in Exhibit "A", has been superseded by relocation and there are no other public facilities within the easement and the easement is no longer required for public utilities.

3. That from and after the date of this resolution is recorded, the 10-foot public utility easement vacated will no longer constitute a public utility easement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 10-foot public utility easement located between 1901 and 1925 West Orangeburg Avenue in the City of Modesto, which is more particularly described in **Exhibit "A"** which is attached hereto and incorporated by reference, be and is hereby vacated and abandoned.

BE IT FURTHER RESOLVED the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder's Office and that such vacation and abandonment shall become effective immediately upon such recordation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

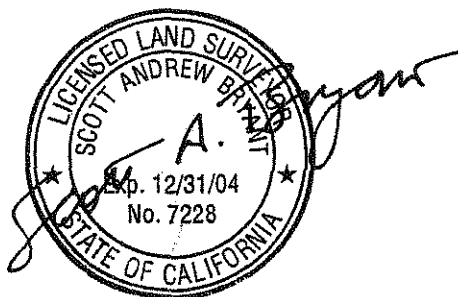
All that real property situated in the City of Modesto, County of Stanislaus, State of California, being a portion of Parcel 3 as said parcel is shown on that certain parcel map filed in Book 39 of Parcel Maps at Page 67, Stanislaus County Records, said property being further described as follows:

The easterly 10.00 feet of said Parcel 3.

Excepting therefrom: the northerly and southerly 10.00 feet thereof.

Containing 2,071 square feet more or less.

End of Description



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-460**

**A RESOLUTION ACCEPTING THE PROJECT TITLED “REPLACE SHADE
STRUCTURES AT BEYER AND GRACEADA PARKS” AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled “Replace Shade Structures at Beyer and Graceada Parks”, has been completed by CEN-CAL Construction, in accordance with the contract agreement dated October 22, 2002,

NOW, THEREFORE, BE IT RESOLVED that the “Replace Shade Structures at Beyer and Graceada Parks” project be accepted from said contractor, CEN-CAL Construction, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$303,693.31 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-461**

**A RESOLUTION APPROVING THE INSTALLATION OF AN ALL-WAY STOP
ON MERLE AVENUE AT FINE AVENUE.**

WHEREAS, Staff received a request from Freedom Elementary School to install an all-way stop on Merle Avenue at Fine Avenue, and

WHEREAS, the school is concerned with safety at this intersection, and

WHEREAS, City staff has reviewed the intersection's collision history, traffic volumes, and performed a speed survey at this location and has concluded that an all-way stop can be accommodated as requested without creating a hazard and without impeding traffic flow, and

WHEREAS, based on the traffic volumes warrant from the Caltrans Traffic Manual, an all-way stop is warranted at this intersection, and

WHEREAS, the Economic Development Committee reviewed and approved the installation of an all-way stop, as requested by Freedom Elementary School, at their meeting on August 11, 2003, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of an All-way Stop on Merle Avenue at Fine Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-462**

A RESOLUTION ACCEPTING THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) GRANT FOR \$60,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE NECESSARY GRANT DOCUMENTS.

WHEREAS, in June, 2003, the City received notice from the State of California Office of Traffic Safety (OTS) that it was awarded a grant for \$60,000 for the installation of lighted crosswalks at various locations within the city of Modesto, and

WHEREAS, this grant will be used to install lighted crosswalks at various locations in Modesto, thereby enhancing safety for pedestrians, and

WHEREAS, the total project cost is \$120,000, \$60,000 of which will be paid by the State of California OTS grant, and the City will be responsible for the other \$60,000, and

WHEREAS, the project grant application was reviewed and approved by the Economic Development Committee at its August 11, 2003, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the State of California OTS grant in the amount of \$60,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents for said projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-463**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-04 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) GRANT FOR \$60,000 AND CREATING A NEW CAPITAL IMPROVEMENT PROJECT, ENTITLED "OTS LIGHTED CROSSWALKS VARIOUS LOCATIONS"

WHEREAS, in June, 2003, (per agenda report) the City was awarded a grant of \$60,000 from the State of California Office of Traffic Safety (OTS) grant program for the installation of lighted crosswalks at various locations within the city of Modesto, and

WHEREAS, the total project cost is \$120,000, and the City will be responsible for the other \$60,000, and

WHEREAS, said funds can be utilized for the installation of lighted crosswalks at various locations within the City of Modesto, thereby enhancing safety for pedestrians, and

WHEREAS, the project grant application was reviewed and approved by the Economic Development Committee at its August 11, 2003, meeting, and

WHEREAS, the FY2003-2004 Capital Improvement Budget must be amended to accommodate this grant before funds can be expended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2003-04 Capital Improvement Program budget as follows: (1) creating a new CIP MY-2300-160-A221 "OTS Lighted Crosswalks Various Locations for \$120,000, (2) reducing the appropriated funds and inter-fund transfers for MY-2300-160-M144 by \$60,000, and (3) budgeting new transfers from the Gas Tax Fund (0700) to provide the required \$60,000 local match to this grant,

BE IT FURTHER RESOLVED that upon receipt of the grant funds, the Finance Director, or her designee is hereby authorized to implement 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 September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 464**

**A RESOLUTION ORDERING THE LEVY AND COLLECTION OF CHARGES
FOR THE PURPOSE OF THE RECONSTRUCTION OF CERTAIN ALLEYS
AND SIDEWALKS**

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to levy charges or assessments for the purpose of administering projects related to the reconstruction of alleys and sidewalks, pursuant to the provisions of the Streets and Highways Code, Chapter 27, Section 5870, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocation of cost reports by City Engineering, and

WHEREAS, the City Council 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 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 City Council hereby orders the levy and collection of such charges related to the reconstruction of alleys and sidewalks as shown in **Attachment “A”** for the 2003-04 fiscal year, and that a certified copy of this resolution together with the attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2003-04 County tax roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None


ABSENT: Councilmembers: Fisher

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

CITY OF MODESTO
ASSESSMENT ROLL RECEIVABLE LIST
2003-2004

ATTACHMENT A
7/23/2003

SIDEWALKS & CURBS								1ST INSTALLMENT	2ND INSTALLMENT	TOTAL
1.	2004	29	1821	121	CAMERON, BILL H. & PAULINE	0700	480 4725 4053	253.28	253.28	506.56
3.	2001	32	1719	221	LIMA, JAMES M.	0700	480 4725 4053	87.65	87.65	175.3
6.	2004	29	1823	121	SIMPSON, CLARENCE E & LOIS	0700	480 4725 4053	137.76	137.76	275.52
7.		120	2204	261	WINTERS, HERMAN	0700	480 4725 4053	<u>216.21</u>	<u>216.21</u>	<u>432.42</u>
								694.90	694.90	1389.80

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 465**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL
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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

Budget Adjustments for the Month of August 2003

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
<i>Community & Economic Development Department</i>									
#1									
1)	Appropriation	Contingency Reserve	0800	800	8000	8003 0800R	\$0	-\$8,500	-\$8,500
1)	Appropriation	Mail - Inside	0800	140	1435	0202 1435C	\$0	\$1,000	\$1,000
	Appropriation	Printing/Binding	0800	140	1435	0205 1435C	\$0	\$1,000	\$1,000
	Appropriation	Business Expenses	0800	140	1435	0208 1435C	\$0	\$1,000	\$1,000
	Appropriation	Utilities	0800	140	1435	0210 1435C	\$0	\$500	\$500
	Appropriation	Equip. Pool Rental	0800	140	1435	0218 1435C	\$0	\$500	\$500
	Appropriation	Advertising	0800	140	1435	0230 1435C	\$0	\$1,000	\$1,000
	Appropriation	Services, Professional & Other	0800	140	1435	0235 1435C	\$0	\$2,000	\$2,000
	Appropriation	Delivery	0800	140	1435	0245 1435C	\$0	\$500	\$500
	Appropriation	Office Supplies	0800	140	1435	0301 1435C	\$0	\$1,000	\$1,000
	Justification:	Re-appropriate un-expended funds from FY02/03 in order to fund and complete this Council-authorized Housing Element project, which is expected to be completed in December '03. There is no General Fund impact.							
<i>Parks, Recreation & Neighborhoods Department</i>									
#1									
1)	Appropriation	Contingency Reserve	1140	800	8000	8003 1140R	\$0	-\$16,853	-\$16,853
1)	Appropriation	Direct Loans	1140	320	3265	0497 none	\$0	\$16,853	\$16,853
	Justification:	The Minor Home Repair Grant Program was approved by Council on June 24, 2003 (Resolution No. 2003-319). This transfer of reserves from Fund 1140 (CDBG Rental Rehab Program) will provide funding for FY03-04. There is no General Fund impact.							
#2									
1)	Appropriation	Contingency Reserve	1130	800	8000	8003 1130R	\$0	-\$150,000	-\$150,000
1)	Appropriation	Homeless Day Facility	1130	320	3254	0511 3250C	\$0	\$150,000	\$150,000
	Justification:	The Homeless Day Facility was presented to the City Council on August 6, 2003. This transfer of reserves from Fund 1130 (CDBG Public Services) will provide funding for FY03-04. There is no General Fund impact.							
#3									
1)	Appropriation	Misc. Services	1130	320	3252	0260 3250C	\$18,636	(\$7,122)	\$11,514
	Appropriation	Misc. Services	1130	320	3254	0260 3250C	\$0	\$27,290	\$27,290
	Appropriation	Contingency Reserve	1130	800	8000	8003 1130R	\$0	(\$20,168)	(\$20,168)
	Appropriation	Salary Adjustments	1170	320	3258	0181 3258A	\$0	\$1,943	\$1,943
	Appropriation	Contingency Reserve	1170	800	8000	8003 1170R	\$0	(\$1,943)	(\$1,943)
2)	Revenue	CDBG Entitlement	1130	320	3254	3513R na	\$1,288,961	\$12,290	\$1,301,251
	Revenue	CDBG Entitlement	1130	320	3256	3513R na	\$798,399	(\$12,290)	\$786,109
	Justification	Adjustments are necessary to re-balance the CDBG and HOME entitlement grants after the re-allocation of internal service charges for Information Technology, Workers' Compensation and Liability. There is no General Fund impact.							

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-466**

A RESOLUTION TO CONSIDER AUTHORIZING THE FINANCE DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR INVESTMENT ADVISORY SERVICES FOR THE CITY OF MODESTO, REDEVELOPMENT AGENCY OF THE CITY OF MODESTO, MODESTO PUBLIC FINANCING AUTHORITY, COMMUNITY FACILITY DISTRICTS, AND THE TUOLUMNE RIVER REGIONAL PARK.

WHEREAS, under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds for the City and its agencies in accordance with sound treasury management, and

WHEREAS, the Finance Department has requested investment advisory services relating to the management of investments for the City and its agencies in accordance with sound treasury management, and

WHEREAS, the City has a need for professional assistance in meeting its investment goals of safety of principal, liquidity and maximization of yield, 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, one exception to the formal bidding requirement is contracts for Professional Services (MMC8-3.204)(a), and

WHEREAS, the Finance Committee reviewed this request at its August 13, 2003, meeting, and authorized staff to proceed to the full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Department to issue a call for Request for Proposals (RFP) for the provision of investment advisory services.

BE IT FURTHER RESOLVED that the Council hereby authorizes said Request for Proposals (RFP) to be evaluated and a recommendation for award made based on criteria outlined in the Request for Proposals (RFP). The Finance Department will then present a recommendation for award to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-467**

A RESOLUTION TO CONSIDER AUTHORIZING THE FINANCE DEPARTMENT TO SOLICIT REQUEST FOR QUALIFICATIONS FOR UNDERWRITING SERVICES FOR THE CITY OF MODESTO, REDEVELOPMENT AGENCY OF THE CITY OF MODESTO, AND COMMUNITY FACILITY DISTRICTS.

WHEREAS, the issuance of long-term debt has historically provided a major source of funding for capital needs, and

WHEREAS, the high cost of acquiring or replacing capital needs generally results in the inability to accumulate sufficient cash in fund reserves from which to pay for necessary improvements, and

WHEREAS, the City anticipates issuing debt in the near future relating to its capital needs in community facilities districts and utility funds, and

WHEREAS, a need exists to supplement the City's financing team with qualified underwriters, 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, one exception to the formal bidding requirement is contracts for Professional Services (MMC8-3.204)(a), and

WHEREAS, the Finance Committee reviewed this request at its August 13, 2003, meeting, and authorized staff to proceed to the full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Department to issue a call for Request for Qualifications (RFQ) for the provision of underwriting services.

BE IT FURTHER RESOLVED that the Council hereby authorizes said Request for Qualifications (RFQ) to be evaluated and a recommendation for development of a roster of underwriters be made based on criteria outlined in the Request for Qualifications (RFQ). The Finance Department, in consultation with its financing team, will select an underwriter for a specific future bond issue based on the particular structure of the financing and a particular firm's expertise in a specialized area of financing.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-468**

**A RESOLUTION TO CONSIDER AUTHORIZING THE FINANCE
DEPARTMENT TO SOLICIT REQUEST FOR PROPOSALS FOR A WATER
AND WASTEWATER USER FEE AND INFRASTRUCTURE FEE STUDY.**

WHEREAS, the City last commissioned a rate study of its water and wastewater utilities in 1998, and

WHEREAS, a utility rate study encompasses a thorough evaluation of the City's customer classes, rate structures, cost of service, rate policies, revenue requirements, legal requirements, working capital reserve requirements, and development of a rate model, and

WHEREAS, the City anticipates future major capital improvements and increased operations and maintenance costs relating to the water and wastewater utilities, and

WHEREAS, staff recommends the use of a utility rate specialist to enhance the financial management of the water and wastewater utilities, and

WHEREAS, utility rate analysis requires expertise that does not exist within the City due to the relative infrequency of conducting such analysis, 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, one exception to the formal bidding requirement is contracts for Professional Services (MMC8-3.204)(a), and

WHEREAS, the Finance Committee reviewed this request at its August 13, 2003, meeting, and authorized staff to proceed to the full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Department to issue a call for Request for Proposals (RFP) for the provision of water and wastewater user fee and infrastructure fee study.

BE IT FURTHER RESOLVED that the Council hereby authorizes said Request for Proposals (RFP) to be evaluated and a recommendation for award made based on criteria outlined in the Request for Proposal (RFP). The Finance Department will then present a recommendation for award to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-469**

A RESOLUTION APPROVING SUBMITTAL OF AN APPLICATION FOR \$87,480 IN GRANT FUNDS FROM THE RECREATION TRAILS PROGRAM FOR THE VIRGINIA CORRIDOR RAILS-TO-TRAILS PROJECT, CERTIFYING AVAILABILITY OF \$21,870 FOR THE REQUIRED 20% LOCAL SHARE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION DOCUMENTS.

WHEREAS, the Transportational Equity Act For The 21st Century provides funds to the State of California for grants to state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail purposes, 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, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) and the availability of the 20% local share required for the grant before submission of said application(s) to the State, and

WHEREAS, the applicant will enter into an agreement with the State of California to complete the project(s), and

WHEREAS, staff is recommending submitting an application requesting \$87,480 for the Virginia Corridor Rails-to-Trails 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 \$87,480 in funding from the Recreational Trails Program for development of the Virginia Corridor Rails-to-Trails Project; and

2. Certifies that the City of Modesto 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;
3. Certifies that the sum of \$21,870 for the 20% local share required for the grant is available, and
4. Appoints the City Manager as agent of the City of Modesto 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 aforementioned project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-470**

**A RESOLUTION APPROVING COOPERATIVE AGREEMENT NO. 10-177 AND
COOPERATIVE AGREEMENT NO. 10-178 WITH THE STATE OF
CALIFORNIA - DEPARTMENT OF TRANSPORTATION TO PROVIDE FOR
LANDSCAPE ENHANCEMENT WITHIN AND NEAR THE BRIGGSMORE
EXPRESSWAY INTERCHANGE, AND AUTHORIZING THE CITY MANAGER
TO EXECUTE SAID AGREEMENTS.**

WHEREAS, at the March 13, 2001, City Council Meeting, the Council authorized the City Manager to submit an application and negotiate an agreement for the use of Transportation Enhancement Activities (TEA) funds for a landscape beautification project within and near the Briggsmore / State Route 99 Interchange, and

WHEREAS, at that time, the City Council committed matching funds of up to \$75,000 for this project from the General Fund, and

WHEREAS, the City was notified in Fall of 2002 that funding had been identified for this project and Amendment #34 to the Federal Transportation Improvement Program (FTIP) was approved, identifying \$1,000,000 of State TEA funds, \$200,000 of Regional TEA funds and \$100,000 of Caltrans Minor Program funds for the Highway 99 Briggsmore Expressway Landscape Improvements Project, and

WHEREAS, in the Fall of 2002, City staff began working with Caltrans District 10 to prepare two cooperative agreements for the funding of the construction of landscape enhancements within and near the Briggsmore / State Route 99 Interchange, with said project area to include landscape enhancements to the Briggsmore Interchange and along State Route 99 for 0.5 miles to the south and 0.8 miles to the north of the Briggsmore Expressway along the northbound and southbound lanes, and

WHEREAS, the Cooperative Agreements also required the maintenance of the improvements to be paid for by the City of Modesto for three years from the time of

completion of construction, and after the initial three years of maintenance, the State of California will take responsibility for maintenance of the improvements indefinitely, and

WHEREAS, the Safety and Communities Committee met on August 4, 2003, and supported the recommendation to approve the Cooperative Agreements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves Cooperative Agreement No. 10-177 and Cooperative Agreement No. 10-178 with the State of California - Department of Transportation to provide for landscape enhancement within and near the Briggsmore Expressway Interchange.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-471**

A RESOLUTION GRANTING APPROVAL FOR THE INTERNATIONAL FESTIVAL COMMITTEE TO CONDUCT AN INTERNATIONAL FESTIVAL IN THE CITY OF MODESTO, SUBJECT TO CERTAIN CONDITIONS, AND RESCINDING RESOLUTION NO. 2002-289

WHEREAS, the International Festival Committee (hereinafter referred to as the Committee) has filed a request with the City Council for permission to conduct the International Festival in the City of Modesto, and

WHEREAS, the International Festival is an annual event, which celebrates the ethnic and cultural diversity in the community, and the City co-sponsors the International Festival held annually each October, and

WHEREAS, the International Festival offers a variety of arts and crafts and food booths as well as entertainment, and the Committee has requested the use of Graceada and Enslin Parks for the International Festival, and

WHEREAS, the Committee has requested direct City assistance for the festival, and

WHEREAS, the Safety and Communities Committee met on August 4, 2003, and recommended supporting the proposed festival changes, and

WHEREAS, the Council has considered the request for direct City assistance with the International Festival activities, and the Council deems it appropriate to grant approval of the changes and assistance to the Committee relating to said request, subject to certain conditions,

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it does hereby approve the International Festival, subject to the conditions set forth,

relating to the Committee's request for direct City Assistance with the International Festival activities.

1. The Committee will conduct the International Festival annually on Saturday and Sunday of the first weekend in October.
2. The event will be conducted from 11:00 a.m. to 9:00 p.m., on Saturday, and 11:00 a.m. to 7:00 p.m. on Sunday.
3. The committee will be allowed Festival setup on the day prior to the event from 9:00 a.m. to 9:00 p.m.
4. The City shall provide and set up the portable stage with awning at Graceada Park prior to 8:00 a.m. on Saturday for entertainment and will remove said stage after 7:00 p.m. on the final event day.
5. The City shall provide and set up the 30' x 40' awning at Graceada Park on Friday, and will remove said awning after 7:00 p.m. Sunday.
6. The City shall provide a portable PA system during the festival. The PA system is to be delivered on Saturday prior to 11:00 a.m. and picked up on Sunday at 5:00 p.m. The City shall provide staff for operation of the system.
7. The City shall allow the Committee the use of amplified instrumentation at the event during designated event times at a volume not to disturb the adjoining neighborhoods.
8. The Committee shall be responsible for providing a technician for electrical services for the food booths, sound systems, and light systems. The City shall provide a technician to connect the Committee's sound system to the electrical power at Mancini Bowl.
9. The City shall allow the Committee the use of temporary signs and banners during the designated event time at Graceada and Enslin Parks.
10. The City shall allow use of a banner to be displayed in Graceada Park two weeks prior to the event date. Banner must be approved by City and Committee must pay for installation and removal of said banner by 12:00 noon on the Monday following the festival.
11. The City shall provide 60 garbage cans, liners and litter removal from the park site during the event. Garbage cans will be delivered on Friday, prior to the event and removed after the event on Monday.
12. The Committee shall be responsible for removing any and all trash, garbage or refuse left on private property.

13. The City shall provide the cost of mailing up to 800 pieces of information, not to exceed \$300.00.
14. The Committee shall adhere to all Alcoholic Beverage Control requirements, specifically that all alcoholic beverages shall remain within the enclosed "beer & wine garden" sales area.
15. The Committee shall be responsible for providing portable toilets at the park site.
16. The City shall waive all City fees, including but not limited to, fire inspection and business license fees, and shall exempt festival from the sign ordinance during festival hours; however, the Committee shall be responsible for any and all other fees as may be required by other agencies.
17. The Committee shall provide its own hired, licensed and insured 24-hour security for the beer and wine garden as well as nighttime security.
18. The City will provide two police officers to exclusively patrol Graceada and Enslin Park. Officers would assist overnight private security from Saturday 9:00 pm until Sunday 6:00 am.
19. The City will provide shuttle bus service to Graceada Park; the route and times will be determined by the Director of Engineering and Transportation. The City will provide necessary barricades and signs for the shuttle service and will remove barricades and signs at the conclusion of the event.
20. The City will provide police assistance during the International Festival activities as deemed necessary by the Police Chief.
21. The City will provide barricades to be placed on the streets around the perimeter of Graceada and Enslin Parks to provide curbside parking for the Committee during the event.
22. The City will close Stoddard Avenue between Park and Enslin Avenues from Friday at 7:00 pm through Sunday at 7:00 pm. City staff will notify all neighbors within the surrounding area of this street closure.
23. All public improvements shall be left in the same condition as existed prior to the Festival.
24. All private and public property used as a result of the Festival, either directly or indirectly, shall be left in a safe and non-hazardous condition. Any obstructions to public or private use shall be removed by the Committee not later than 12:00 p.m. on Monday, after the event.

BE IT FURTHER RESOLVED that the following conditions shall apply to the request of the Committee relating to its International Festival:

1. That the City of Modesto shall indemnify and hold harmless the Committee from any and all liability, costs, damages, for injuries to persons or damage to property, which may arise out of or in any way be connected with the ordinary and customary condition of City property and facilities, or which may arise out of the negligent acts or omissions of any officer, agent, or employee of the City of Modesto.
2. That the Committee shall indemnify, defend and hold harmless the City of Modesto, its officers, agents and employees from any and all liability, costs, damages or injuries to persons or damage to property, which may arise out of or in any way be connected with the Committee's International Festival and the use of the City facilities for the Committee's International Festival.
3. That the Committee shall provide to the City Clerk current and valid certificate(s) of insurance that are in compliance with the City of Modesto Standard Insurance requirements. Such insurance, at a minimum, shall include Commercial General Liability coverage in a primary amount of not less than \$1,000,000 per occurrence; include the City of Modesto, it's agents, officers, employees, and volunteers, as an additional insured; provide the City with ten days' written notice prior to cancellation, alteration or material changes in coverage. The Committee shall also file acceptable verification of coverage for legal liquor liability. Such verifications shall be submitted to the Risk Manager and shall meet with his approval one week prior to the date of the Festival. Upon approval, said verification shall be filed with the City Clerk.

BE IT FURTHER RESOLVED that the City Clerk shall furnish the Committee with a copy of this resolution. The Committee shall file a written acceptance of this resolution with the City Clerk, and no right shall be conferred hereby until said acceptance is filed.

BE IT FURTHER RESOLVED that City Council Resolution No. 2002-289 adopted June 2, 2002, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-472**

**A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR
THE 2003 FEDERAL LOCAL LAW ENFORCEMENT BLOCK GRANT WITH
THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE
FOR THE PROCUREMENT OF EQUIPMENT AND TECHNOLOGY AND
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID APPLICATION**

WHEREAS, the City of Modesto Police Department can make application to the U. S. Department of Justice, Bureau of Justice Assistance for the 2003 Local Law Enforcement Block Grant Program, and

WHEREAS, the program is of 24-month duration, and it includes the program area of procuring equipment and technology to enhance law enforcement, and

WHEREAS, the Police Department wishes to submit an application for various unmet equipment and technology needs, 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 \$176,584 of which the federal share is \$158,926 and the local match is \$17,658 and that match is available from the 2003 California Law Enforcement Equipment Program, and

WHEREAS, at its meeting of August 4, 2003, the Safety and Communities Committee unanimously supported making application for this grant, and

WHEREAS, as required by the dictates of this program, the Police Department will present a specific budget for equipment and technology to the Council of the City of Modesto, in a public hearing, 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 2003 Local Law Enforcement Block Grant for the purchase of police equipment and technology.

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 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers:

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 473**

**A RESOLUTION APPROVING THE ADDITION OF TWO NEW POLICE
CLERK POSITIONS IN THE MODESTO POLICE DEPARTMENT FOR THE
PURPOSE OF OPERATING A LIVESCAN FINGERPRINTING SYSTEM**

WHEREAS, the Modesto Police Department secured the funds for purchase of a LiveScan Fingerprinting System in the federal 2002 COPS MORE Grant, and

WHEREAS, the LiveScan Fingerprinting System is labor intensive and will require two, fulltime, Police Clerks to operate it, and

WHEREAS, LiveScan technology has become an excellent tool for conducting immediate background checks for a variety of job applicants and provides a valuable service to the citizens in our community, and

WHEREAS, the LiveScan Fingerprinting System is expected to earn sufficient revenue to support the cost of its maintenance and staffing, and

WHEREAS, unsuccessful LiveScan Fingerprinting programs have generally been a result of failing to adequately staff and effectively manage the service, and

WHEREAS, fees can be charged for LiveScan Fingerprinting services and those fees are expected to cover the costs of these two new Police Department positions, and

WHEREAS, at its meeting of August 4, 2003, the Safety and Communities Committee unanimously recommended approval of these two additional Police Clerk positions for the Modesto Police Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two new Police Clerk positions in the Modesto Police Department to operate a LiveScan Fingerprinting System.

BE IF FURTHER RESOLVED that City staff is hereby authorized to hire the two Police Clerks.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Council member Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael Milich
Michael Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-474**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/2004 ANNUAL
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS**

WHEREAS, the Police Department secured funds for the purchase of a LiveScan Fingerprinting System in the 2002 COPS MORE grant, and

WHEREAS, it can now be purchased and two new Police Clerks will operate it, and

WHEREAS, fees for the fingerprinting services are projected to cover the costs of the Police Clerks and the maintenance and operation of the LiveScan Fingerprinting System,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/2004 Annual Budget is hereby amended as indicated below:

<u>Expense:</u>			
To:	0100-190-1921a-1921-0110	\$104,800	Salaries
	0100-190-1921a-1921-0188	1	Benefits
	0100-190-1921c-1921-0223	14,000	Maintenance Expenses
	Total	\$118,801	
<u>Revenue:</u>			
To:	0100-190-1921-4024	\$118,801	Fingerprint Fees

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 September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: Fisher

ATTEST: Jean Zair
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-475**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT
FOR WATER METERS TO BADGER METERS INC., MILWAUKEE, WI FOR A
THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION
OPTIONS**

WHEREAS, the Operations and Maintenance Department Water Division has requested the purchase of water meters in various sizes, and

WHEREAS, these water meters will be used to service residential sites and commercial and industrial businesses within the City, and

WHEREAS, the purchase of new meters under the meter replacement program is for the replacement of non-operable and non-repairable water meters and for the installation of new metered service in new subdivisions, and

WHEREAS, for the past five years the City has purchased residential positive displacement meters and turbine meters from Badger Meters Inc., and in fiscal year 02/03 92% of these meters were purchased from Badger Meter Inc, and

WHEREAS, Badger Meters Inc. residential positive displacement meters are thermoplastic meters, which are 100% lead free and meet or exceed the requirements of Prop. 65 and NSF 61, and

WHEREAS, Badger Meters Inc. meters register measuring chamber and strainer can be replaced without removing the meter from the meter setting, does not require a special tool to remove the register and with large numbers on the display make the register easier and faster to read thus promoting better field efficiency, and

WHEREAS, Badger Meter Inc. commercial and turbine meters have a test port in the body housing and by having this port accuracy testing can be done in the field, and

WHEREAS, the Water Division is in the process of evaluating an automated meter reading system, and Badger Meter Inc. meters are compatible and interface with both brands of meter reading systems being evaluated, and

WHEREAS, in March 2003, Council approved Resolution No. 2003-127 authorizing the Purchasing Supervisor to formally solicit bids for water meters for the Operations and Maintenance Department Water Division, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-23, and

WHEREAS, six (6) vendors were solicited with two (2) vendors choosing to respond, one of which was a no-bid, and

WHEREAS, on May 20, 2003 bids were opened and recorded in the City Clerk's office, and

WHEREAS, it is recommended by staff that the City award the contract for water meters to Badger Water Meters Inc., Milwaukee, WI, for an estimated annual cost of \$410,297.13, for a three (3) year agreement with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for water meters to Badger Water Meters Inc. for an estimated annual cost of \$410,297.13, for a three (3) year agreement with two (2) one-year extension options.

BE IT FURTHER RESOLVED that the City Manager 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 2nd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmemeber Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-476**

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 DATE IN NOVEMBER, 2003, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER, 2003, RUN-OFF ELECTION "FAILS"

WHEREAS, the County Clerk/Recorder has informed the City that the County would not be able to conduct the 2003 December run-off election as presently provided for in the Modesto City Charter, and

WHEREAS, the County Clerk/Recorder stated that the County would not be able to conduct the City's run-off election because it was anticipated that it would be necessary to use the entire 28-day canvassing period allowed under the Elections Code due to recent changes in California law pertaining to the conduct of elections, and

WHEREAS, the County Clerk/Recorder's letter further states that 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 ten days prior to the run-off date as required by the Elections Code, and that it would therefore be necessary for the City to conduct the December run-off in the event one was necessary, and

WHEREAS, it is not certain that the City proposed charter amendment changing the run-off date to March will be approved by the voters in the November, 2003 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 from the City Attorney and the City Clerk to the City Council dated August 15, 2003, 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, 2003, 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 2nd day of September, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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



CITY OF MODESTO
COUNCIL AGENDA REPORT

COUNCIL MEETING:
September 2, 2003

August 15, 2003

TO: Mayor and Councilmembers

FROM: Michael D. Milich, City Attorney
Jean Zahr, City Clerk

SUBJECT: Run-Off Election Procedures

CONTACT: Michael D. Milich, City Attorney, mmilich@modestogov.com (577-5284)
Jean Zahr, City Clerk, jzahr@modestogov.com (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 date in November, 2003, and directing the City Attorney to file an action in Superior Court to do the following in the event that the December, 2003, run-off election "fails": (1) Obtain an order prohibiting the City Clerk from canvassing the December 9, 2003, run-off election, (2) declare the December 9, 2003, run-off election nullified, and (3) request the Court to retain jurisdiction until the run-off election results are certified. (See Attachment A)
2. Resolution calling for a special election to be held on March 2, 2004, and requesting the Board of Supervisors of the County of Stanislaus to consolidate the special election with any other election to be held on that date pursuant to Section 10403 of the Elections Code for the purpose of holding a run-off election that might otherwise have been held on December 9, 2003. (See Attachment B)

BACKGROUND:

The Council will recall that on August 8, 2002, the County Clerk/Recorder, Lee Lundrigan, delivered a letter to the City Clerk (see Attachment C) stating that the County would not be able to conduct the 2003 December run-off election as presently provided for in the Modesto City Charter. The County Clerk/Recorder stated in the letter that she would not be able to conduct the City's run-off election because she anticipated it would be necessary to use the entire 28-day

canvassing period allowed under the law due to recent changes in the California Elections Code. The letter further states that 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. So it will be necessary for the City to conduct the December run-off in the event one is necessary.

Due to the uncertainty about the passage of the charter amendment proposal changing the run-off date to March, we believe it is prudent and necessary for the City Council to approve run-off election procedures as soon as possible in order to "de-politicize" any required decisions concerning the December run-off. In that regard, we recommend that the City Council adopt the following run-off election procedures:

SELECTION OF RUN-OFF CANDIDATES:

- Establish November 14, 2003, 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 said determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.
- Prior to November 14, 2003, the City Clerk 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. 2003-292.
- 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, 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 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 election shall be deemed to have "failed," and the City Attorney shall proceed with the litigation outlined below.

CHARTER AMENDMENT:

According to the records of the general elections held on November 7, 2000, and November 5, 2002, the election results for measures on the ballot (as opposed to candidates) have never changed from the tabulation made on election day. (See Attachment D) Further, the greatest historical deviation from the approval or disapproval rate has been 2.9%. In accordance with this historical pattern we recommend the City Council adopt the following procedure with regard to the different scenarios that could result from the passage or failure of the charter amendment changing the run-off date.

- On November 14, 2003, at 5:00 p.m., the City Clerk shall obtain the vote tabulation printed by the County Elections Office at that date and time for the charter amendment measure. Depending on whether the approval rate is greater or less than 51% at said date and time, then the City Clerk shall proceed as follows:
 - If the approval rate at that date and time is 51% or more, the City Clerk shall proceed as if the measure will pass. If the measure does not pass, the resolution recommended below will become effective and the run-off will be held in March.
 - If the approval rate is less than 51%, then the City Clerk shall proceed as if the measure will fail. If the measure passes, the run-off election will be deemed to have “failed,” and it will be necessary to initiate the litigation described in the next paragraph.

LITIGATION:

- In the event said run-off election 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 9, 2003, run-off election.
 - Declare the December 9, 2003, 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 eight (8) possible scenarios which are summarized in the attached “Decision Tree.” (See Attachment E)

In the event the charter amendment fails and pursuant to the procedures set forth above, the City Clerk has not printed and mailed ballots, or in the event the charter amendment fails, and incorrect names for the run-off ballots were chosen pursuant to procedure set forth above, it will

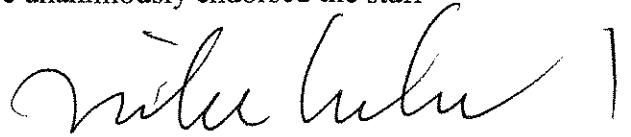
be necessary to call a special election for the purpose of holding the run-off. The next available election date pursuant to the Elections Code is the first Tuesday in March. In order to hold a special election on that date the City Council must adopt a resolution requiring consolidation no later than 88 days prior to the first Tuesday in March, 2004. As a cautionary measure, we recommend that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

The proposed resolution is attached.

In order to avoid allegations of conflict of interest, we also recommend that the Mayor and Councilmember Conrad abstain from voting on this matter when it comes before the Council in September. The precedent for this is the fact that Councilmembers Friedman and Smith also abstained when the Council considered action related to the "failure" of the 2001 run-off election.

COMMITTEE ACTION:

At its August 13, 2003, meeting the Finance Committee unanimously endorsed the staff recommendation.



MICHAEL D. MILICH
City Attorney



JEAN ZAHR
City Clerk

Attachments: (A) Council Resolution Adopting Run-Off Procedures
(B) Council Resolution Calling for a Special Election
(C) Letter from Clerk/Recorder
(D) Historical Voting Information
(E) Decision Tree

cc: Jack R. Crist, City Manager
George Britton Deputy City Manager
Donna Hansen, Deputy City Manager

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-477**

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON MARCH 2, 2004, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE SPECIAL ELECTION WITH THE STATE-WIDE PRIMARY ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE FOR THE PURPOSE OF HOLDING A RUN-OFF ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR DECEMBER 9, 2003

WHEREAS, in the event a proposed charter amendment changing the run-off date for municipal elections from December to March fails to pass and the December run-off election “fails,” it will be necessary to reschedule the run-off election, and

WHEREAS, the City Council determines that in that event the run-off election should be held on the first Tuesday in March and consolidated with the state-wide primary.

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 9, 2003, to the voters on March 2, 2004.
2. 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 the special municipal election with the state-wide primary election on Tuesday, March 2, 2004, for the purpose of holding a run-off election that was previously scheduled for December 9, 2003, to elect the Mayor and members of Council for Chairs 1, 3, and 6.

3. That the County Elections Department is authorized to canvass the returns of the special run-off election. That the Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all such steps necessary for the holding of the consolidated election.
4. That the City of Modesto recognizes that a cost will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such cost.
5. That the City Clerk is hereby directed to file a certified copy of this resolution of the Board of Supervisors and the County Elections Department of the County of Stanislaus.
6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
7. This resolution shall only be effective in the event the charter amendment fails, and the City Clerk has not printed and mailed ballots, or in the event the charter amendment fails, and incorrect names for the run-off ballots were chosen.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-478**

**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 following classification:

Property and Evidence Specialist

The job specification for this classification is being amended as a result of updating the job specification as part of a job audit. The specification for the classification of Property and Evidence Specialist, 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.

Police Officer Trainee

The job specification for this classification is being amended as a result of a change to the experience and training guidelines required by time of appointment. The specification for the classification of Police Officer Trainee, 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 2. EFFECTIVE DATE. This resolution shall become effective on and after (date), 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JUAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EVIDENCE AND PROPERTY 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 perform administrative and technical duties associated with the maintenance and control of police evidence and property; to protect the integrity of evidence throughout the judicial process; and to insure compliance with all State and local laws regarding the storage and disposition of property and evidence.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Support Services Administrative Sergeant and/or other management staff within the Police Department Chain of Command.

May exercise functional and technical supervision over lower level 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 and book evidence and found property including making computer entries, bar-coding, processing items for proper storage and making log entries as applicable.

Research the criminal court disposition of cases in order to dispose of evidence in a timely manner and in accordance with law.

Research for proper disposition all found property to attempt to return it to its legal owner as soon as possible.

Photograph items as necessary before being released to owners or Police Officers.

Maintain records of evidence tracking to insure the integrity of the evidence for courtroom use in prosecution of offenders.

Evidence and Property Specialist
NO. 4333

Testify in court regarding handling and chain-of-custody of evidence.

Work with management and supervisors to develop, maintain, and modify inventory and audit procedures in order to insure the security of the police evidence facility.

Receive laboratory samples, log in accordance with the evidence tracking procedures, and take or send to the appropriate laboratory for testing; store in accordance with recommended legal guidelines.

Maintain computer records or files on all evidence that shows how and when it came into the facility, left the facility, returned to the facility or its final disposition.

Issue equipment to officers and maintain stock of regularly issued equipment.

Stock and store ammunition for use by the department.

Use a variety of computer systems to conduct research on stolen property, to identify the disposition on cases, to find the identity and addresses of victims and suspects, and to determine the disposition of evidence.

Prepare a variety of paperwork and correspondence used in the tracking and control of firearms work sheets and logs for controlled tracking.

Research the computer system for DROS (Dealer registration of sale) on all guns. Make a recheck of all serialized weapons before destruction. \

Prepare Notice Of Destruction notices for newspaper publication of unclaimed firearms and prepare items for destruction trips to the burn plant in compliance with department regulations and state laws.

Handle, package and dispose of hazardous materials such as medical/biological waste, illegal drugs or pharmaceuticals; handle, package and store bio-hazards such as: blood, semen, urine, or clothing covered in such hazards; and handle, package, store and dispose of large quantities of marijuana and marijuana plants which may contain pathogenic mold according to all safety procedures.

Prepare Court Affidavits for destruction of drugs and process through the Superior Court Judge and Court Recorder.

Inventory, audit and prepare auction lists on property being sold as unclaimed.

Train new supervisors; assign work and oversee hourly staff, and volunteers assigned to the facility.

Evidence and Property Specialist
NO. 4333

Inventory and audit weekly deposits of money; prepare logs, transport and deposit monies through the city Finance Department.

Prepare Evidence Deficiency Notices, copy, distribute and track whether the problems are corrected.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Pertinent Federal, State and local laws, rules and regulations related to the collection, storage, and disposition of evidence.

Safety regulations related to the proper handling, storage and transportation of hazardous materials and biohazards.

General police science and the California Penal Code.

Principles and practices of armory control and maintenance.

Principles and practices of records management systems including inventory techniques.

Ability to:

Effectively account for evidence, police property/supplies, and organize and maintain accurate records and logs.

Understand, access and accurately interpret information from various computer systems such as: CLETS, CAPIS, DA Filing Computer System, DOJ, CAD and Probation.

Use a variety of office equipment, computer systems and software such as: Word, Access, Intranet, Microfiche, Voice Mail, GroupWise, scanners, fax, pagers, and copiers.

Work independently or as a member of a team to accomplish a variety of tasks involved in the job.

Take photographs and maintain records.

Lift and carry medium to heavy objects up to 75 lbs.

Evidence and Property Specialist
NO. 4333

Communicate effectively, both orally and in writing.

Interpret and apply Federal, State and local policies, procedures, laws and regulations.

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:

One year of related experience in stores keeping, materials management, or warehousing. Prior experience in a law enforcement agency is highly desirable.

Education:

Equivalent to graduation from high school. Supplemental college coursework in criminal justice or a related field is highly desirable.

License or Certificate:

Possession of, or ability to obtain, a valid, appropriate California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Warehouse and office environment; exposure to hazardous materials and biohazards.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing, bending and stooping, or sitting for prolonged periods of time, lifting and carrying up to 75 lbs., using a personal computer and other office equipment and traveling from site to site.

Work Assignment:

Must be willing to work various shifts as assigned including weekends and holidays.

SEPTEMBER 2003

CITY OF MODESTO
NO. 7115
NO. 7120**POLICE OFFICER / POLICE OFFICER TRAINEE**

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 law enforcement and crime prevention work; to control traffic flow and enforce State and local municipal codes, violations and traffic regulations; to perform investigative work; to participate in and provide support and assistance to special crime prevention and enforcement programs; and to perform a variety of technical and administrative tasks in support of the department.

DISTINGUISHING CHARACTERISTICS

Police Officer Trainee - This is the entry-level class in the sworn Police Officer series. This class is distinguished from the Police Officer by the performance of the more routine tasks and duties assigned to positions within the series. Since this class is typically used as a training class, employees may have only limited or no directly related work experience.

Police Officer - This is the full journey level class within the Police Officer series. Employees within this class are distinguished from the Police Officer Trainee by the performance of the full range of duties as assigned including the full range of law enforcement work. 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 EXERCISED

Receives general supervision from higher level supervisory and management staff.

Exercises technical supervision over non-sworn personnel.

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

Essential Functions

Patrol a designated area of the City to preserve law and order, discover and prevent the commission of crimes, and enforce traffic and other laws and ordinances; assist stranded motorists.

Police Officer/Police Officer Trainee
NO. 7115
NO. 7120

Essential Functions (Continued)

Answer calls and complaints involving automobile accidents, robberies, and related misdemeanors and felonies; render first aid as required.

Respond to general public service calls including animal complaints, domestic disturbances, civil complaints, property control, and related incidents.

Collect, process, photograph and present evidence using scientific techniques including fingerprints, fibers, blood, and related physical evidence.

Check buildings for physical security.

Serve as Field Training Officer as assigned; train new officers on departmental policies, procedures and activities.

Enforce traffic laws and ordinances; check speed with radar; issue warnings and citations.

Direct traffic at fire, special events, and other emergency or congested situations.

Conduct investigations of serious injury and fatality traffic accidents.

Conduct traffic accident analyses and general traffic surveys.

Conduct a variety of criminal investigations involving crimes against persons and property, auto theft, white-collar crime, and narcotics; gather evidence and prepare cases for prosecution.

Identify suspects; conduct interviews and interrogations; apprehend and arrest offenders.

Teach bicycle safety in accordance with State agencies.

Contact and interview victims and witnesses; preserve and investigate crime scenes.

Conduct covert, undercover investigations as assigned.

Contact and cooperate with other law enforcement agencies in matters relating to the apprehension of offenders and the investigation of offenses.

Maintain contact with citizens regarding potential law enforcement problems and preserve good relationships with the general public; take an active role in areas of public education relative to crime and crime prevention.

Assist in the performance of special investigative and crime prevention duties as required.

Police Officer/Police Officer Trainee
NO. 7115
NO. 7120

Essential Functions (Continued)

Prepare reports on arrests made, activities performed and unusual incidents observed.

Make arrests as necessary; interview victims, complainants and witnesses; interrogate suspects; administer polygraph tests; gather and preserve evidence; testify and present evidence in court.

Serve warrants within the department and with outside agencies; remain current on laws and procedures required for processing warrants.

Serve as Assistant Squad Leader performing the duties of a Police Sergeant as assigned; act as Watch Commander; review and approve the reports of other Police Officers.

Perform a wide variety of laboratory tests and procedures including those related to narcotics testing; act as Department photographer; testify in court as an expert witness.

Serve as Department Training Manager; review and assess training needs and available programs; oversee and coordinate the attendance of Departmental staff at training programs and seminars; research policies and procedures related to training activities.

Serve as Crime Prevention Officer; oversee and coordinate crime prevention activities; make presentations to local citizens and community groups.

Serve as Intelligence Officer or Gang Officer; gather crime related intelligence information and conduct background investigations; coordinate information and activities with outside agencies and jurisdictions.

Investigate juvenile related crimes including child abuse and juvenile narcotics; coordinate youth services with outside agencies and organizations including local school districts; conduct community presentations and instruct assigned classes.

Participate in recruiting sworn staff; conduct background investigations; interview potential job candidates and references; administer voice stress analysis tests.

Give oral presentations at schools, clubs and other community organizations.

Act as Department court liaison.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Police Officer Trainee

Ability to:

Learn proper Police procedures and methods.

Analyze situations quickly and objectively, and determine and take emergency and/or appropriate action.

Understand and carry out oral and written instructions.

Communicate effectively, both orally and in writing.

Learn the operation of standard equipment and facilities required in the performance of assigned tasks including a computer.

Type at a reasonable speed necessary for successful job performance (25 wpm).

Learn standard broadcasting procedures of a police radio system including mobile dispatch terminals.

Meet the physical requirements established by the Department.

Prepare accurate and grammatically correct written reports.

Use and care for firearms.

Use maps and learn City geography.

Handle multiple assignments.

Perform occasional medium-heavy lifting up to 75 lbs.

Police Officer

In addition to the abilities listed for Police Officer Trainee:

Knowledge of:

Police methods and procedures including patrol, crime prevention, traffic control, investigation and identification techniques.

Police Officer/Police Officer Trainee
NO. 7115
NO. 7120

Criminal law and criminal procedure with particular reference to the apprehension, arrest and custody of persons committing misdemeanors and felonies, including rules of evidence pertaining to the seizure and preservation of evidence.

Offensive and defensive weapons nomenclature and theory.

Self defense tactics.

First aid and CPR procedures and practices.

Interviewing and interrogation techniques.

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:

Police Officer Trainee

Experience:

None required.

Training:

Equivalent to the completion of the twelfth grade and completion of a minimum of 30 units of college coursework from an accredited college or university. Possession of an Associate of Arts degree is desirable.

License or Certificate:

Possession of an appropriate, valid California driver's license.

Police Officer Trainees must be currently attending or completed a POST certified Basic Law Enforcement Academy. Proof of completion of a POST certified Basic Law Enforcement Academy is required by time of appointment. Certificate must be dated within three years.

Additional Requirement:

Minimum of 21 years of age at time of application.

Police Officer/Police Officer Trainee
NO. 7115
NO. 7120

Police Officer

Experience:

One year experience in a California law enforcement agency, which requires a Basic POST certificate.

Training:

Equivalent to the completion of the twelfth grade and completion of a minimum of 30 units of college coursework from an accredited college or university. Possession of an Associate of Arts degree is desirable.

License or Certificate

Possession of an appropriate, valid California driver's license.

Possession of a Basic POST Certificate from the State of California.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site.

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 and medium/heavy occasional lifting up to 75 lbs.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-479**

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 95-26 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO CHANGE EVIDENCE AND PROPERTY SPECIALIST FROM (RANGE 111) TO (RANGE 114).

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 95-26,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 95-26. Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective January 10, 1995," attached to Resolution No. 95-26, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective September 9, 2003," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" changes the salary range for Evidence and Property Specialist from Range 111 to Range 114.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after September 9, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **September 9, 2003**

EXHIBIT "A"

RANGE	TITLE
101	Custodian I Maintenance Aide
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	
110	Animal Control Officer I Security Officer Equipment Service Worker I Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Worker II Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Animal Control Officer II Assistant to the Events Coordinator Code Enforcement Officer I Community Service Officer I Planning Technician I 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	Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Planning Technician II Public Information Technician Wastewater Treatment Plant Operator

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Meter Reader Crewleader Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Coach Mechanic Cross Connection Specialist Fire Equipment Mechanic Law Enforcement Academy Recruit Programmer Analyst I 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 Coach Mechanic Crewleader Electrician 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 Environmental Compliance Inspector II Instrument Repair Technician Programmer Analyst II Sr. Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Sr. Civil Engineering Assistant
132	Sr. Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-480**

A RESOLUTION APPROVING A PROFESSIONAL SERVICE CONTRACT WITH MEAD & HUNT, INC., AIRPORT ENGINEERS, IN THE AMOUNT OF \$99,808 TO PROVIDE RUNWAY 10L/28R CONSTRUCTION INSPECTION, TESTING, AND ADMINISTRATION FOR MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER OR HIS DISIGNEE TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, Runway 10L/28R at Modesto City-County Airport is scheduled for reconstruction and the project has a critical path that requires full-time resident engineer/inspector oversight, and

WHEREAS, the firm of Mead & Hunt, Inc. completed the project plans and specifications for the City, and the firm possess the technical expertise required for the construction inspection, testing, and administration, and

WHEREAS, staff has negotiated what is considered reasonable fees for the construction inspection and administration with Mead & Hunt, inc., and

WHEREAS, the City Attorney's Office finds the terms of the contract acceptable, and

WHEREAS, City staff has received the Federal Aviation Administration's verbal approval that allows the firm of Mead and Hunt to provide the runway construction inspection and administration,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the professional services contract amounting to \$99,808 for Mead & Hunt, Inc. to provide inspection, testing, and construction administration for Modesto City-County Airport's RW 10L/28R reconstruction project.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is authorized to execute the professional services contract with Mead & Hunt, Inc .on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 – 481**

A RESOLUTION TO APPROVE THE ACCEPTANCE OF AN ADDITIONAL \$1.0 MILLION IN FEDERAL FUNDS FOR PROJECTS TO EXPAND THE AIRPORT TERMINAL PARKING LOT AND FOR THE REHABILITATION OF THE PAVEMENT IN THE GENERAL AVIATION HANGAR AREA AT MODESTO CITY-COUNTY AIRPORT AND ACKNOWLEDGING THAT THE CITY MANAGER, OR HIS DESIGNEE, HAS ALREADY ACCEPTED THE FEDERAL GRANT ON BEHALF OF THE CITY

WHEREAS, the City Council on January 2, 2002, authorized staff to file an application for Airport Improvement Program funds for various airport projects including reconstruction of the commercial service runway (RW 10L/28R) at the airport, a project to expand the passenger parking adjacent to the airport terminal, and a project to reconstruct the taxilanes in the general aviation hangar area, and

WHEREAS, the runway project, and the project to construct additional parking lot and to rehabilitate the general aviation area taxilanes are in the Airport's Fiscal Year 2004 Capital Improvement Program budget, and

WHEREAS, the deadline for acceptance of the grant was August 29, 2003, and August 12, 2003, was the last meeting of the City Council in August, and

WHEREAS, it was not until August 19, 2003 that officials of the Federal Aviation Administration could tell City staff with any certainty that funding for the parking lot expansion and taxilanes rehabilitation would be awarded, and

WHEREAS, by Resolution No. 2003-436, the Council accepted an estimated \$1.5 Million grant and authorized the City Manager to execute same, and

WHEREAS, on August 27, 2003, the FAA delivered to the City an Airport Improvement Program grant in the total amount of \$2.5 million (\$1.0 million entitlement funds for the parking lot expansion and taxilane improvements/\$1.5 million discretionary funds for the reconstruction of RW 10L/28R) and required that the grant be accepted by the City not later than August 29, 2003, and

WHEREAS, FFA policy prescribes that airport sponsors must provide resolutions for all funds accepted, and

WHEREAS, City staff requests that by resolution, Council formally accept the additional \$1 Million in available grant funds (as part of the \$2.5 Million total grant) and acknowledges that the City Manager, or his designee, has already accepted the federal grant on behalf of the City,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves accepting an additional \$1.0 Million of federal airport program funds for the construction of an additional airport terminal parking lot and rehabilitation of general aviation area taxilanes at Modesto City-County Airport (as part of a total \$2.5 Million grant from the Federal Aviation Administration).

BE IT FURTHER RESOLVED that Council hereby acknowledges and authorizes the action already taken by the City Manager, or his designee, in accepting the grant prior to the August 29, 2003, deadline.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-482

A RESOLUTION ACCEPTING THE PROJECT TITLED "EAST BROADWAY AVENUE/STATE ROUTE 219 WATERLINE RELINING" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "East Broadway Avenue/State Route 219 Waterline Relining", has been completed by Detrick Corporation, in accordance with the contract agreement dated January 15, 2002,

NOW, THEREFORE, BE IT RESOLVED that the "East Broadway Avenue/State Route 219 Waterline Relining" project be accepted from said contractor, Detrick Corporation, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$124,399.81 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-483**

**A RESOLUTION INCREASING THE ENGINEERING AND
TRANSPORTATION DIRECTOR'S AUTHORITY LEVEL TO ISSUE CHANGE
ORDERS FROM \$25,000 TO \$45,200 ON THE "EAST BROADWAY
AVENUE/STATE ROUTE 219 WATERLINE RELINING" PROJECT.**

WHEREAS, on January 15, 2002, the City Council awarded a \$79,216.00 contract to Detrick Corporation to construct the East Broadway Avenue/State Route 219 Waterline Relining project, and

WHEREAS, the contractor started work on April 8, 2002, and the work is complete, and

WHEREAS, during the course of construction, the contractor was required to perform additional work that was not covered under the original contract which resulted in ten change orders, and

WHEREAS, the total cost of the extra work is \$45,183.81, 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 \$25,000,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Engineering and Transportation Director's authority level to issue change orders, from \$25,000 to \$45,200 for the project entitled "East Broadway Avenue/State Route 219 Waterline Relining."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-484**

**A RESOLUTION AWARDDING A \$192,744 CONTRACT TO HDR
ENGINEERING, INC., FOR ENGINEERING DESIGN SERVICES FOR THE
PROJECT TITLED "REPLACEMENT OF THE LA LOMA AVENUE SEWAGE
LIFT STATION"**

WHEREAS, following a Request for Qualifications which was sent to 84 engineering firms, 11 qualification statements for the design of the La Loma Avenue Sewage Lift Station were submitted to the City, and

WHEREAS, from the 11 qualification statements received, 2 of the most qualified firms were short-listed to receive a Request for Proposal and interview, and

WHEREAS, the proposals and interviews for the engineering design services for said project were rated by the selection team, and HDR Engineering, Inc., was rated highest, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that HDR Engineering, Inc., be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of HDR Engineering, Inc., in an amount not to exceed \$192,744,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the project titled "La Loma Avenue Sewage Lift Station," to HDR Engineering, Inc., in an amount not to exceed \$192,744.

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 September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-485**

A RESOLUTION APPROVING AN AGREEMENT WITH KOEGLER CONSULTING GROUP TO CONDUCT AN ASSET INVENTORY AND VALUATION ASSESSMENT OF PARKS, TRAILS, RECREATION FACILITIES AND RECREATION PROGRAMS, AT A COST NOT TO EXCEED \$11,500 PLUS EXPENSES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, in recent years the City of Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for services and the prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, wishing to be proactive in securing future funding for its programs, developed a Fund Development Strategies and Actions document, and

WHEREAS, the Modesto City Council adopted Resolution 2003-95 accepting the Fund Development Strategies and Actions as recommended by the Parks, Recreation and Neighborhoods Department and directing staff to develop specific funding plans, and

WHEREAS the Fund Development Strategies and Actions recommends that staff pursue an Asset Inventory and Valuation Assessment of parks, trails, recreation facilities and recreation programs, and

WHEREAS, City staff has concluded that Koegler Consulting Group is the most qualified to conduct an Asset Inventory and Valuation Assessment for the City of Modesto based on noteworthy successes in the field of fund development in parks and recreation systems, and

WHEREAS, Koegler Consulting Group has agreed to perform the required work as set forth in the "Scope of Work" attached hereto as **Exhibit "A"**, at a cost not to exceed \$11,500, plus expenses, and

WHEREAS, the Safety and Communities Committee, during its August 4, 2003 meeting, supported the concept of an Asset Inventory and Valuation Assessment of parks, trails, recreation facilities and recreation programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Kogler Consulting Group to conduct an Asset Inventory and Valuation Assessment of parks, trails, recreation facilities and recreation programs as described in the Scope of Work, attached hereto as Exhibit "A", and incorporated herein by reference.

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 September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT "A"

Scope of Work

General Scope and Purpose

To develop strategies and vehicles that will provide the Modesto Parks, Recreation and Neighborhoods Department with new opportunities for revenue generation. The areas of emphasis will be :

- Long-term endowment monies for maintenance, operation, and renovation of specified existing and proposed facilities and programs. These monies may come from individuals, foundations, or corporations. Special attention will be given to future projects such as the Virginia Corridor Trail and Grogan Park.
- Short-term exclusive vendor contracts that could produce additional funds for operation and specific renovations.
- Identification of facilities and programs that would be potential candidates for a corporate naming rights program.

PROCESS

- A. Koegler Consulting will conduct an inventory and assessment of all existing parks, facilities, and trails within the system. This on-site inventory will require 2 – 3 days. The department will need to provide a guide for this inventory that has general knowledge of the facilities.
- B. Koegler Consulting will review any and all master plan projects and projections that apply to the facility inventory.
- C. Based on the results of the inventory, specific facilities will be identified that have the maximum potential for legacy endowments. The list will be reviewed with management and after agreement, each project/facility will be developed utilizing a customized pricing formula designed specifically for the parks department. This process will include interviews with key staff of each individual facility, and the review of financials for each facility cost center. These interviews can be accomplished electronically.
- D. During the information gathering process, data will be assessed for recommendations concerning vendor agreements and identification of facilities that would be attractive to corporations for short-term naming rights.
- E. Koegler Consulting will make specific recommendations and provide a template for use by the department in the development of a customized "Naming Policy and

Procedures” manual. The actual manual must be produced by the legal council of the Parks Department, usually the city attorney or solicitor, and include all applicable state and local ordinances and laws that would apply. This process can be accomplished electronically.

Items to be included: naming policies; plaque sizes, types, mounting specs, locations, etc. for each type of naming opportunity; protocol for media promotion of gifts; protocol for recognition events based on gift size and type; additional policies and procedures that may be necessary to implement the Legacy Endowment Program.

- F. Based on all information collected, a “template” for a gifting catalog will be provided by Koegler Consulting. It will include a projected list of facilities and programs with an agreed upon “naming price list” based on operational, renovation, capital, and projected endowment expenses. The data can then be developed into an informational and marketing brochure by Modesto Parks staff or a professional advertising and marketing company. Koegler Consulting will review and make recommendations of all drafts.
- G. Two professional presentations will be included in the project. They will be up to 1 ½ hours each and the content will be customized based on the needs of the department. One may be a presentation to city council outlining the successes of other communities including the Oglebay Foundation and conceptually presenting the program being developed by the parks department. A second presentation could be at the conclusion of the project and be directed to the community foundation trustees and local community leaders and be a “campaign kick-off.” These presentations will be flexible and will include the guidance of the director of the parks department. Specific groups, dates, times, and location will be decided after the initiation of the contract.

STAFF INVOLVEMENT

The department staff will need to be involved in the on-site tour. They will need to provide existing master plan information and current operating financials for identified facilities and programs and be involved in the process of approving and modifying recommendations of the consultant and implementing any and all approved programs. The initial estimate of staff time would be considered nominal with the majority of the time involved in the approval and implementation process. Should a facility not have a master plan with renovation costs or construction costs, appropriate staff would be required to assist in projecting construction and operating costs on a case-by-case basis.

FINAL PRODUCTS

- A. Template for the development of a “gifting catalog” including a number of facilities and programs from each park area and a scale with a monetary range from \$1,000 to multiple millions. The information and data will be in a format that can be easily developed into a brochure/catalog by a professional advertising agent.
- B. The project will produce a customized formula for pricing future facilities and programs based on the original gifting catalogs processes and final benchmarking.
- C. A naming rights policy and procedure manual specifically designed for the Modesto Parks, Recreation and Neighborhoods Department.
- D. Recommendations on exclusive vendor contracts including types, locations, contract wording, and projected potential contractual financial benefits.
- E. Identification of any and all facilities and programs that by their nature and use would be candidates for corporate naming rights programs. This list can then be further developed, if so desired, with the assistance of a corporate naming rights specialist or consultant.
- F. Specific language for design agreements

TIMELINE

Sept./Oct. 2003	On-site evaluation, inventory, interviews. Possible presentation to city council. 3 – 4 days – Late September, Early October
Oct./Nov. 2003	Review of all materials - data accumulation. Formulation of “first draft” of gifting catalog and asset inventory.
December 2003	On-site report of preliminary findings and recommendations. Additional interview and fact-finding. 1 – 2 days
Jan./Feb. 2004	Complete project components for final presentation
Feb./March 2004	On-site final project presentation to staff – Possible date for presentation to community foundation and community leaders.
April/May 2004	On-going oversight into final preparation of gifting catalog and “kick-off” marketing campaign.

The project, as outlined, includes three on-site visits and two professional presentations to community groups.

Exhibit "B"

CONTRACTUAL REGULATIONS AND FEE STRUCTURE

Process A – G

Final Products A – E \$11,500

Timeline: All work will be completed by May 1st, 2004 assuming the contract is signed by September 1st, 2003.

Travel: All travel must be mutually agreed upon and will be at an additional expense. Generally coach air, mid-sized rental car, daily meal per diem, business hotel.

Acceptance of this proposal will constitute a nonexclusive, nontransferable, limited license to (a) utilize the consultation and recommendations solely by the Modesto Parks, Recreation and Neighborhoods Department, (b) reproduce the recommendations, publications, or report only for limited purpose and use of the park system in carrying out the programs therein described and (c) refrain from reproducing the recommendations, publication, or report, or any part thereof, for any use by any parties who are not named in this agreement.

Neither the recommendations, publications or report, nor any right hereunder may be assigned, sublicensed or otherwise transferred in whole or in part by the Modesto Parks, Recreations and Neighborhoods Department to any other party.

Koegler Consulting does not warrant any specific results from the adoption or implementation of the programs described in the completed report, since all such results will be primarily based on the effort in implementing and pursuing the recommendations of the project.

Koegler Consulting requires a retainer fee of \$1,500 upon the signing of the contract. Billing will be periodic, based on a percentage of the work completed. Travel expenses will be billed as incurred.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-486**

**A RESOLUTION APPROVING A ONE-YEAR LEASE RENEWAL WITH
STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO)
FOR THE USE OF CITY OWNED HOUSE AT 308 LOCUST STREET BY
STANCO'S TRANSITIONAL HOUSING PROGRAM, AT THE COST OF \$1.00.**

WHEREAS, in 1988, the City received the property at 308 Locust Street during the foreclosure process on a housing rehabilitation loan and this house was then used for temporary relocations for households being required to move while their units were being rehabilitated under the Housing Maintenance Program, and

WHEREAS, in 1997, the City began leasing the home to Stanislaus County Affordable Housing Corporation (STANCO) at the cost of \$1.00 per year, inasmuch as the house was not needed for relocations at that time and had been vacant, and

WHEREAS, STANCO has expressed their interest in renewing the lease which expired on July 13, 2003, and

WHEREAS, City staff anticipates relatively few temporary relocations from the Housing Maintenance Program during the next year and does not feel the home would be used enough to deny STANCO's full-time use of the house, and

WHEREAS, the new lease has been signed by STANCO, and

WHEREAS, this item was recommended for approval by the Citizens Housing and Community Development Committee at its August 22, 2003, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year lease renewal with Stanislaus County Affordable Housing Corporation (STANCO) for the use of a city-owned house at 308 Locust Street by STANCO's transitional housing program, at the cost of \$1.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2003 by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: Fisher

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-487**

**A RESOLUTION AUTHORIZING THE PURCHASE OF AN EQUESTRIAN
TRUCK FOR POLICE TOWING POLICE HORSES AND OTHER
MULTIPURPOSE USES FOR A TOTAL ESTIMATED COST OF \$41,000**

WHEREAS, the Police Department is in need of a new truck to tow the Police horse trailer, and

WHEREAS, the Equestrian truck is beyond its anticipated life, is more than 20 years old, was donated to the Police Department by its original owner and is in need of replacement, and

WHEREAS, there is currently a sole source provider that has a Ford F250 with dual rear wheels designed for towing, and

WHEREAS, this new truck will also serve as a multipurpose vehicle, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves purchase of a 2003 Ford F250 Pick-up Truck from sole source provider, Heritage Ford in Modesto at a cost of \$41,000.

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 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 488**

A RESOLUTION AUTHORIZING THE PURCHASE OF A COMMAND VEHICLE FOR CITY CRITICAL INCIDENTS FOR A TOTAL ESTIMATED COST OF \$42,000

WHEREAS, the Police Department is in need of a new command vehicle for critical incidents in the City, and

WHEREAS, the Police Department currently utilizes a converted surplus ambulance for the City's critical incident response and that vehicle has outlived its useful life, is prone to frequent repairs and is in need of replacement, and

WHEREAS, there is currently a sole source provider that has a Ford Expedition outfitted with full command center in the rear and all emergency and lighting equipment, that is being offered at a savings of \$4,000 because of an ordering error for another California Police agency, and

WHEREAS, this new vehicle will also serve as an additional patrol supervisory vehicle, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a 2003 Ford Expedition Police Package Command Vehicle from sole source provider, Pasadena Ford, at 1365 East Colorado Blvd. in Pasadena, California at a cost of \$42,000.

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 9th day of September, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-489**

**A RESOLUTION APPROVING POLICIES AND PROCEDURES FOR
ISSUANCE OF PERMITS FOR ALCOHOL CONSUMPTION IN CITY PARKS.**

WHEREAS, on July 22, 2003, by motion, the City Council adopted Ordinance 3310-C.S.--an ordinance amending Sections 12-4.201 and 12-4.202 of Article 2 of Chapter 4 of Title 12 of the Modesto Municipal Code relating to use of park and recreation areas and facilities (prohibiting use of alcohol in City Parks), and

WHEREAS, the ordinance does provide for an exception with prior approval of the Parks, Recreation and Neighborhoods Department Director through a permit process, and

WHEREAS, City staff has developed a permit and process for issuance of permits, and

WHEREAS, the Safety and Communities Committee met on August 4, 2003, and supported the recommended policies and procedures for issuance of permits for alcohol consumption in City parks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the policies and procedures for issuance of permits for alcohol consumption in City parks as follows:

1. The permitting process will be administered by the Parks, Recreation and Neighborhoods Department, with applications available at the Police main station and area offices, City Hall at the Mall, King-Kennedy Memorial Center, Senior Citizens Center, and the PR&N offices at Tenth Street Place. The permit would also be available on-line to submit via the Internet or FAX.
2. If the permit for alcohol is in conjunction with a reservable facility, no additional permit will be issued. The appropriate information will be included in the facility reservation permit.

3. Information on other relevant ordinances and laws will be listed on the permit. For example, issuance of a permit does not supersede laws prohibiting public intoxication.
4. Parks signs will be revised to include this ordinance. The other code sections cited on the signs will also be re-evaluated.
5. Alcohol permits will not be issued on site. In order to be legal, permits must be issued prior to events.
6. Permits will be issued for specific dates or events. Individuals, private gatherings and small group events will be eligible for permits.

BE IT FURTHER RESOLVED that the permit, attached hereto as **Exhibit "A"** and incorporated herein by reference, 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 September 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, O'Byrant, Mayor Sabatino
NOES:	Councilmembers:	Jackman, Keating
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

PERMIT NO. _____

City of Modesto Parks, Recreation & Neighborhoods Department

Alcohol Use Permit

The Parks, Recreation and Neighborhoods Department has granted permission for the use of alcohol during the event as described below.

Name of Permit Holder: _____

Address of Permit Holder: _____

Event Location: _____ Number Attending: _____

Date of Event: _____ Time: From _____ to _____

Type of Event: _____

Restrictions/Responsibilities:

Permit Holder must be present for the entire duration of the event. Permit must be in his/her possession during the event, and available for review by City staff, if requested.

Ass containers are not allowed in any City Park, except by permit.

Park patrons must obey all posted signs, ordinances, etc., including those related to public intoxication.

All City parks close at 10 p.m.

Permit is issued for invited guests only.

Alcoholic beverages may not be sold.

Alcohol may not be served to anyone under the age of twenty-one (21). ID may be requested by City staff.

This permit does not grant reserved or exclusive use of the above facility or location.

I have read the above restrictions and agree to adhere to them. Failure to do so may result in immediate revocation of this permit.

Permit Holder

Date

Approved:

Director of Parks, Recreation and Neighborhoods or designee

Date

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-490**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-04 OPERATING BUDGET TO APPROPRIATE \$8,000 FROM THE GENERAL FUND RESERVE, 0100-800-8000-8003 TO THE PARKS SERVICES MAINTENANCE, 0100-480-4522-0308.

WHEREAS, on July 22, 2003, by motion, the City Council adopted Ordinance 3310-C.S.--an ordinance amending Sections 12-4.201 and 12-4.202 of Article 2 of Chapter 4 of Title 12 of the Modesto Municipal Code relating to use of park and recreation areas and facilities (prohibiting use of alcohol in City Parks), and

WHEREAS, in order to enforce the ordinance, signage must be strategically placed at all City of Modesto parks, and

WHEREAS, on July 1, 2003, by Resolution No. 2003-362, the Council amended the Fiscal Year 2003-04 operating budget to provide funding for new signage for neighborhood and miscellaneous parks which include the new alcohol restrictions, and

WHEREAS, additional funds are needed to provide signage at regional and community parks, and

WHEREAS, the Safety and Communities Committee met on August 4, 2003, and supported the recommendation to provide funding for signage at regional and community parks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2003-04 operating budget to appropriate \$8,000 from the General Fund Reserve, 0100-800-8000-8003 to Parks Service and Maintenance, 0100-480-4522-0308, Tools, Shop & Field.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, O'Byrant,
Mayor Sabatino

NOES: Councilmembers: Jackman, Keating

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-491**

A RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR FISCAL YEAR 2002-2003, AND AUTHORIZING THE CITY MANAGER 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 United States Department of Housing and Urban Development (HUD), and

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activity of the City and its sub-recipients for the period of July 1, 2002, through June 30, 2003, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant, HOME, and Emergency Shelter Grant Programs, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, a public comment period was held from August 24, 2003 through September 9, 2003, 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 met on August 22, 2003, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 9, 2003, 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 that the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2002-2003 is hereby approved subject to any correction for accuracy being made by the City Manager, and a copy of said Report is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED 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 9th day of September, 2003, by Councilmember Frohman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-492

RESOLUTION ADOPTING *STRATEGIC PLAN*-BASED PERFORMANCE MEASURES FOR THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT, ENGINEERING AND TRANSPORTATION DEPARTMENT, AND THE OPERATIONS AND MAINTENANCE DEPARTMENT AND DIRECTING STAFF TO REPORT ON THE PERFORMANCE MEASURES TO THE CITY COUNCIL ON A QUARTERLY BASIS

WHEREAS, on October 23, 2001, Council adopted a *Strategic Plan* and Vision to serve as the road map for the City's future, and

WHEREAS, as part of the adoption of the *Strategic Plan* Council directed staff to develop Performance Measures linked to the *Strategic Plan*, and

WHEREAS, historically City departments have reported on Performance Measures as part of the budget process, and

WHEREAS, existing Performance Measures have been useful for internal management tools but are unrelated to the *Strategic Plan* and not outcome based, and

WHEREAS, existing Performance Measures do not have established targets and are not displayed graphically for easy interpretation of trends, and

WHEREAS, in July 2002, Council adopted *Strategic Plan*-based Performance Measures for the Fire Department, the Police Department and Parks, Recreation and Neighborhood, and

WHEREAS, Performance Measures have been developed for the Community and Economic Development, Operations and Maintenance, and Engineering and Transportation Departments, and

WHEREAS, the proposed Performance Measures reflect *Strategic Plan* goals and Vision, are outcome based, include targets, benchmark against other jurisdictions, and include an interpretation of trends and spikes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Strategic Plan-Based Performance Measures for the Community and Economic Development Department, Operations and Maintenance Department and Engineering and Transportation Department, attached hereto as **Exhibit A**, are hereby approved.

BE IT FURTHER RESOLVED that staff is hereby directed to report on the Performance Measures to the City Council on a quarterly basis using the methodology established in Exhibit A.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohma, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM


MIKE MILICH, City Attorney

Attractive & Economically Vibrant Communities

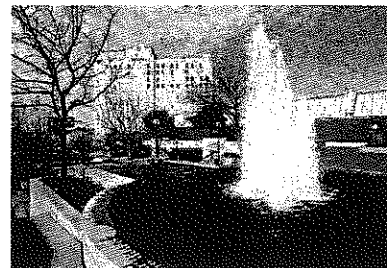
Quarterly Progress Report Community and Economic Development Department

Modesto: A healthy, safe, attractive, economically, vibrant, socially diverse and culturally rich city with a strong sense of identity and pride, a community engaged in the practice of citizenship with governance based on the principle of stewardship.

Grad L. Kilger, Director
bkilger@modestogov.com
(209) 577-5218

Mission:

The mission of the Community and Economic Development Department is to plan, encourage and facilitate private investment in the community by coordinating those municipal activities that affect such investment.



Core Programs and Services:

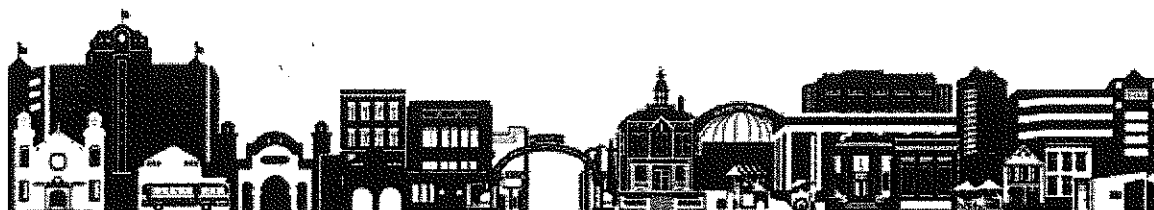
The department has three divisions that serve all parts of our community:

Building and Development Services Division supports, facilitates, and expedites private investment in the community, as well as enhancing its health, safety, and welfare by providing timely and efficient services in the areas of building permits and inspections. The department also seeks creative solutions by bringing projects to successful completion through the use of project teams.

Planning Division plays a critical role in achieving the City Council's goals and objectives relative to the physical development of the community. This includes Current Planning and Advance Planning sections.

The mission of the Planning Division is to ensure a superior quality of life for the City of Modesto's current and future residents by addressing matters concerning growth and the environment. Effective long-range planning processes seek to manage growth and change. The Planning process must balance the need to facilitate private investment in the community with these goals.

Business Development Office strives to stimulate new private investment and job creation. Among the services provided by the Business Development Office is marketing Modesto to recruit and retain business and the creation of new business park areas to help overcome a shortage of industrial land. The focus of the Office's retention and expansion effort is an extensive outreach program to existing businesses. The Office provides the main staff support for the program and activities of the Redevelopment Agency.



Attractive & Economically Vibrant Communities

Quarterly Progress Report Community and Economic Development Department

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Strategic Plan Goals:

- IX. Our downtown is a vibrant, government, financial, corporate and regional entertainment center with high-density housing and services.
- V.A. Modesto applies "Smart City" principles of planning.
- V.B. Manage development to achieve an orderly development pattern and a balanced economy. Agricultural preservation and achieving a jobs-housing balance are priorities.
- V.C. Encourage the expansion of existing and construction of new business parks.
- VI. Promote regional public cooperation to enhance the City's initiatives for economic development.
- X.A.1. Maintain and expand Modesto as a regional center for financial services, medical services, shopping, entertainment and education. Attract high-end shopping opportunities.
- X.A.2. Modesto supports existing businesses and encourages new and diverse businesses to be successful.
- X.A.3. We employ a business-friendly approach while ensuring environmental protection and preserving our quality of life.
- X.II. Redevelopment serves as an economic engine to revitalize and renovate the blighted older portions of town.



Attractive & Economically Vibrant Communities

Quarterly Progress Report Community and Economic Development Department

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PLANNING DIVISION - KEY PERFORMANCE - EFFICIENCY & EFFECTIVENESS MEASURES

Performance Measures	Results	2002-2003 Target	Comments															
<p>CEDD-1. PLANNING APPLICATIONS PROCESSING</p> <p>What: Percentage of zoning and related applications processed within 60 days of submittal of completed application.</p> <p>Why: Measures level of customer service based on application processing turnaround time.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Planning Applications</p> <table border="1"> <caption>Planning Applications Data</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved (%)</th> <th>Target (%)</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>99%</td> <td>95%</td> </tr> <tr> <td>00/01</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'01/02</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'02/03</td> <td>98%</td> <td>95%</td> </tr> </tbody> </table>	Year	Actual Achieved (%)	Target (%)	99/00	99%	95%	00/01	98%	95%	'01/02	98%	95%	'02/03	98%	95%	<p>Target for zoning and related applications processed under 60 days is 95%.</p>	<p>The target is established at 95%, bearing in mind the overall goal is complete processing of all applications. For the coming year, adoption of the supplemental budget will provide resources to meet this 95% target.</p>
Year	Actual Achieved (%)	Target (%)																
99/00	99%	95%																
00/01	98%	95%																
'01/02	98%	95%																
'02/03	98%	95%																
<p>CEDD-2. PLANNING SUBDIVISION AND PARCEL MAPS PROCESSING</p> <p>What: Percentage of tentative subdivision and parcel maps processed within 60 days of submittal of completed application.</p> <p>Why: Measures level of customer service based on subdivision and parcel map processing turnaround time.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Tentative Subdivision and Parcel Maps</p> <table border="1"> <caption>Tentative Subdivision and Parcel Maps Data</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved (%)</th> <th>Target (%)</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>100%</td> <td>95%</td> </tr> <tr> <td>00/01</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'01/02</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'02/03</td> <td>98%</td> <td>95%</td> </tr> </tbody> </table>	Year	Actual Achieved (%)	Target (%)	99/00	100%	95%	00/01	98%	95%	'01/02	98%	95%	'02/03	98%	95%	<p>The target for tentative subdivision and parcel maps processed within 60 days of submittal of completed application is 95%.</p>	<p>The department's overall goal is complete processing of all maps within 60 days. For the coming year, adoption of the supplemental budget will provide resources to meet this 95% target.</p>
Year	Actual Achieved (%)	Target (%)																
99/00	100%	95%																
00/01	98%	95%																
'01/02	98%	95%																
'02/03	98%	95%																
<p>CEDD-3. PLANNING STAFF PLAN REVIEW PROCESSING</p> <p>What: Percentage of Staff Plan Reviews processed within 15 days of submittal of completed application.</p> <p>Why: Measures effectiveness of processing procedures for effective customer service.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Staff Plan Review Process</p> <table border="1"> <caption>Staff Plan Review Process Data</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved (%)</th> <th>Target (%)</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>100%</td> <td>95%</td> </tr> <tr> <td>00/01</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'01/02</td> <td>98%</td> <td>95%</td> </tr> <tr> <td>'02/03</td> <td>98%</td> <td>95%</td> </tr> </tbody> </table>	Year	Actual Achieved (%)	Target (%)	99/00	100%	95%	00/01	98%	95%	'01/02	98%	95%	'02/03	98%	95%	<p>The target for Staff Plan Reviews processed within 15 days of submittal of completed application is 95%. The City of Fresno averages at 90%.</p>	<p>For the coming year, adoption of the supplemental budget will provide resources to meet this 95% target.</p>
Year	Actual Achieved (%)	Target (%)																
99/00	100%	95%																
00/01	98%	95%																
'01/02	98%	95%																
'02/03	98%	95%																

Attractive & Economically Vibrant Communities

Quarterly Progress Report Community and Economic Development Department

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PLANNING DIVISION - KEY PERFORMANCE - OUTPUT MEASURES

Performance Measures	Results	2002-2003 Target	Comments															
<p>CEDD-4. ZONING & RELATED APPLICATIONS</p> <p>What: Number of zoning and related applications per year</p> <p>Why: Measures total activity of the division based on zoning and related application processed.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Zoning & Related Applications</p> <table border="1"> <caption>Zoning & Related Applications Data</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>64</td> <td>40</td> </tr> <tr> <td>00/01</td> <td>75</td> <td>40</td> </tr> <tr> <td>'01/02</td> <td>45</td> <td>40</td> </tr> <tr> <td>'02/03</td> <td>40</td> <td>40</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	64	40	00/01	75	40	'01/02	45	40	'02/03	40	40	<p>The target number of zoning and related applications processed will be 40.</p>	<p>Target numbers attempt to reflect staff's best forecast of the expected number of applications in the category. For this year, 40 is approximately the number of applications expected.</p>
Year	Actual Achieved	Target																
99/00	64	40																
00/01	75	40																
'01/02	45	40																
'02/03	40	40																
<p>CEDD-5. ADMINISTRATIVE PLAN REVIEWS</p> <p>What: Number of Administrative Plan Reviews</p> <p>Why: Measures total activity of the division based on number administrative plan reviews completed.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Administrative Plan Reviews</p> <table border="1"> <caption>Administrative Plan Reviews Data</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>64</td> <td>55</td> </tr> <tr> <td>00/01</td> <td>40</td> <td>55</td> </tr> <tr> <td>'01/02</td> <td>52</td> <td>55</td> </tr> <tr> <td>'02/03</td> <td>55</td> <td>55</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	64	55	00/01	40	55	'01/02	52	55	'02/03	55	55	<p>The target number of number of administrative plan reviews will be 55.</p>	<p>Target numbers attempt to reflect staff's best forecast of the expected number of plan reviews in the category. For this year, staff's best forecast of the expected number of plan reviews is 55.</p>
Year	Actual Achieved	Target																
99/00	64	55																
00/01	40	55																
'01/02	52	55																
'02/03	55	55																
<p>CEDD-6. Tentative Subdivision/Parcel Maps</p> <p>What: The number of tentative subdivision/parcel maps</p> <p>Why: Measures total activity of the division based on the number of tentative subdivision/parcel maps completed.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Staff Plan Review Process</p> <table border="1"> <caption>Staff Plan Review Process Data</caption> <thead> <tr> <th>Year</th> <th># of Maps Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>16</td> <td>20</td> </tr> <tr> <td>00/01</td> <td>19</td> <td>20</td> </tr> <tr> <td>'01/02</td> <td>8</td> <td>20</td> </tr> <tr> <td>'02/03</td> <td>20</td> <td>20</td> </tr> </tbody> </table>	Year	# of Maps Actual Achieved	Target	99/00	16	20	00/01	19	20	'01/02	8	20	'02/03	20	20	<p>The target number of tentative subdivision /parcel maps will be 20.</p>	<p>Target numbers attempt to reflect staff's best forecast of the expected number of maps in the category. For this year, 20 is approximately the number of applications expected.</p>
Year	# of Maps Actual Achieved	Target																
99/00	16	20																
00/01	19	20																
'01/02	8	20																
'02/03	20	20																

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BUILDING & DEVELOPMENT SERVICES - KEY PERFORMANCE - EFFICIENCY & EFFECTIVENESS MEASURES

Performance Measures	Results	2002-2003 Target	Comments															
<p>CEDD-7. TENANT IMPROVEMENT PLAN CHECKS</p> <p>What: Percentage of initial tenant improvement plan checks completed within 10 working days of submittal</p> <p>Why: Measures effectiveness of current staff efforts to provide efficient customer service.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Initial Tenant Improvement Plan Checks</p> <table border="1"> <caption>Initial Tenant Improvement Plan Checks</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>00/01</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'01/02</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'02/03</td> <td>95%</td> <td>98%</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	95%	98%	00/01	95%	98%	'01/02	95%	98%	'02/03	95%	98%	<p>The percentage of initial tenant improvement plan checks completed within 10 working days of submittal will increase to 98%</p>	<p>Projected target will be met by the restructuring of the plan check process in which all types of plan checking will be spread among all plan checkers</p>
Year	Actual Achieved	Target																
99/00	95%	98%																
00/01	95%	98%																
'01/02	95%	98%																
'02/03	95%	98%																
<p>CEDD-8. COMMERCIAL PLAN CHECKS</p> <p>What: Percentage of initial new commercial plan checks completed within 15 working days of submittal</p> <p>Why: Measures effectiveness of current staff efforts to provide efficient customer service.</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Commercial Plan Checks</p> <table border="1"> <caption>Commercial Plan Checks</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>00/01</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'01/02</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'02/03</td> <td>95%</td> <td>98%</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	95%	98%	00/01	95%	98%	'01/02	95%	98%	'02/03	95%	98%	<p>The percentage of initial new commercial plan checks completed within 15 working days of submittal will increase to 98%</p>	<p>Commercial plan checking is coordinated among many departments and overload is sent to an outside plan checking firm to meet projected target</p>
Year	Actual Achieved	Target																
99/00	95%	98%																
00/01	95%	98%																
'01/02	95%	98%																
'02/03	95%	98%																
<p>CEDD-9. RESIDENTIAL PLAN CHECKS</p> <p>What: Percentage of initial residential plan checks completed within 10 working days of submittal</p> <p>Why: Measures effectiveness of current staff efforts to provide efficient customer service</p> <p>Strategic Plan Goals: V.A., V.C.</p>	<p>Residential Plan Checks</p> <table border="1"> <caption>Residential Plan Checks</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>00/01</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'01/02</td> <td>95%</td> <td>98%</td> </tr> <tr> <td>'02/03</td> <td>95%</td> <td>98%</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	95%	98%	00/01	95%	98%	'01/02	95%	98%	'02/03	95%	98%	<p>The percentage of initial residential plan checks completed within 10 working days of submittal will increase to 98%.</p>	<p>Projected target will be met by the restructuring of the plan check process in which all types of plan checking will be spread among all plan checkers</p>
Year	Actual Achieved	Target																
99/00	95%	98%																
00/01	95%	98%																
'01/02	95%	98%																
'02/03	95%	98%																

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BUILDING & DEVELOPMENT SERVICES - KEY PERFORMANCE - OUTPUT MEASURES

Performance Measures	Results	2002-2003 Target	Comments															
<p>CEDD-10. BUILDING INSPECTIONS</p> <p>What: Number of building inspections completed.</p> <p>Why: Measures total activity of the division based on the completion of building permits</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Number of Building Inspections Completed</p> <table border="1"> <caption>Number of Building Inspections Completed</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>71,550</td> <td>77,000</td> </tr> <tr> <td>00/01</td> <td>82,500</td> <td>77,000</td> </tr> <tr> <td>'01/02</td> <td>80,000</td> <td>77,000</td> </tr> <tr> <td>'02/03</td> <td>77,000</td> <td>77,000</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	71,550	77,000	00/01	82,500	77,000	'01/02	80,000	77,000	'02/03	77,000	77,000	<p>The target number of building inspections completed will be 77,000.</p>	<p>The target number indicates the number of inspections that can be handled by current staff. Previous years have required overtime to meet the demand.</p>
Year	Actual Achieved	Target																
99/00	71,550	77,000																
00/01	82,500	77,000																
'01/02	80,000	77,000																
'02/03	77,000	77,000																
<p>CEDD-11. BUILDING PERMITS</p> <p>What: Number of building permits issued.</p> <p>Why: Measures total activity of the division based on the issuance of building permits</p> <p>Strategic Plan Goals: V.A., V.B.</p>	<p>Number of Building Permits Issued</p> <table border="1"> <caption>Number of Building Permits Issued</caption> <thead> <tr> <th>Year</th> <th>Actual Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>5,764</td> <td>6,000</td> </tr> <tr> <td>00/01</td> <td>7,155</td> <td>6,000</td> </tr> <tr> <td>'01/02</td> <td>6,000</td> <td>6,000</td> </tr> <tr> <td>'02/03</td> <td>6,000</td> <td>6,000</td> </tr> </tbody> </table>	Year	Actual Achieved	Target	99/00	5,764	6,000	00/01	7,155	6,000	'01/02	6,000	6,000	'02/03	6,000	6,000	<p>The target number of building permits will be 6,000. In 2002, the City of Bakersfield with a population of 221,000 issued 8,572 permits.</p>	<p>The target indicates what current plan checking staff can reasonably complete. In past years, higher volume of permits has required overtime and the use of outside resources to complete plan checking in a timely manner.</p>
Year	Actual Achieved	Target																
99/00	5,764	6,000																
00/01	7,155	6,000																
'01/02	6,000	6,000																
'02/03	6,000	6,000																
<p>CEDD-12. Valuation of Permits</p> <p>What: Dollar amount valuation of permits in millions.</p> <p>Why: Measures total activity of the division based on the valuation of permits</p> <p>Strategic Plan Goals: V.A., V.C.</p>	<p>Dollar Amount Valuation of Permits (in Millions)</p> <table border="1"> <caption>Dollar Amount Valuation of Permits (in Millions)</caption> <thead> <tr> <th>Year</th> <th>Actual Millions Achieved</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>366</td> <td>350</td> </tr> <tr> <td>00/01</td> <td>477</td> <td>350</td> </tr> <tr> <td>'01/02</td> <td>325</td> <td>350</td> </tr> <tr> <td>'02/03</td> <td>350</td> <td>350</td> </tr> </tbody> </table>	Year	Actual Millions Achieved	Target	99/00	366	350	00/01	477	350	'01/02	325	350	'02/03	350	350	<p>The target valuation of permits will be \$350 million. The City of Bakersfield's 2002 valuation amount is \$547 million.</p>	<p>The target amount indicates a small growth in the valuation of commercial projects over last year.</p>
Year	Actual Millions Achieved	Target																
99/00	366	350																
00/01	477	350																
'01/02	325	350																
'02/03	350	350																



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ECONOMIC DEVELOPMENT - KEY PERFORMANCE - OUTPUT MEASURES

Performance Measures	Results	2002-2003 Target	Comments															
<p>CEDD-13. JOB GROWTH IN MODESTO SPHERE OF INFLUENCE</p> <p>What: Number of jobs created in Modesto SOI.</p> <p>Why: Measures total activity of the division based on the production of job growth</p> <p>Strategic Plan Goals: V.C., VI., X.A.1., X.A.2., X.A.3.</p>	<table border="1"> <caption>Job Creation Effectiveness</caption> <thead> <tr> <th>Fiscal Year</th> <th>Actual number of jobs created</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>N/A</td> <td>700</td> </tr> <tr> <td>00/01</td> <td>N/A</td> <td>700</td> </tr> <tr> <td>'01/02</td> <td>500</td> <td>700</td> </tr> <tr> <td>'02/03</td> <td>700</td> <td>700</td> </tr> </tbody> </table>	Fiscal Year	Actual number of jobs created	Target	99/00	N/A	700	00/01	N/A	700	'01/02	500	700	'02/03	700	700	<p>The target number of jobs created in Modesto SOI will increase to 700.</p> 	<p>The projected target is based on figures collected over the last two years.</p>
Fiscal Year	Actual number of jobs created	Target																
99/00	N/A	700																
00/01	N/A	700																
'01/02	500	700																
'02/03	700	700																
<p>CEDD-14. BUSINESS PARK DEVELOPMENT</p> <p>What: Number of business parks in construction within Modesto SOI.</p> <p>Why: Measures total activity of the division based on business park development</p> <p>Strategic Plan Goals: V.C.</p>	<table border="1"> <caption>Business Parks</caption> <thead> <tr> <th>Fiscal Year</th> <th>Actual Business Parks</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>1</td> <td>1</td> </tr> <tr> <td>00/01</td> <td>1</td> <td>1</td> </tr> <tr> <td>'01/02</td> <td>0</td> <td>1</td> </tr> <tr> <td>'02/03</td> <td>1</td> <td>1</td> </tr> </tbody> </table>	Fiscal Year	Actual Business Parks	Target	99/00	1	1	00/01	1	1	'01/02	0	1	'02/03	1	1	<p>The target number of business parks in construction be 1</p> 	<p>The projected target will be met with the continued development of the Kansas-Woodland Business Park.</p>
Fiscal Year	Actual Business Parks	Target																
99/00	1	1																
00/01	1	1																
'01/02	0	1																
'02/03	1	1																

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Quarterly Progress Report

Engineering and Transportation Department

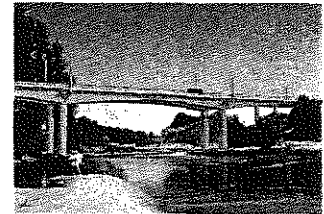
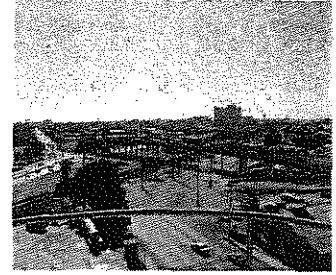
ENGINEERING AND TRANSPORTATION DEPARTMENT

Mission:

The Engineering and Transportation Department is a team committed to building safe roads; moving people and products – in cars, buses, planes; providing safe water; recycling garbage and waste water; making Modesto a great place to live!

Strategic Plan Goals:

- I.A.1. Our infrastructure is modern, efficient, effective, attractive and cost competitive.
- I.A.2. The City is attractive, clean and well landscaped.
- I.B.1. Water and wastewater system capacity and quality is sufficient for all current needs and future economic growth.
- I.C.1. Our storm water system is aesthetically pleasing, drains quickly and efficiently and meets all federal and state water quality standards.
- II. The City has efficient garbage collection and competitive rates with maximal resource recovery.
- III.A. Our City road system moves, people, goods and services without congestion and incorporates alternative transportation modes to promote air quality.
- III.B. Our City transportation system is user-friendly, efficient and well-maintained with good service levels and pollution reduction methods.
- S.A.1. The City hires exceptional employees to delivery City services.
- S.A.3. The City provides excellent customer service from competent, motivated employees and encourages leadership at all levels to nurture innovation to maximize results.
- S.B.4. The City's customers are very satisfied with the quality and efficiency of City Services.



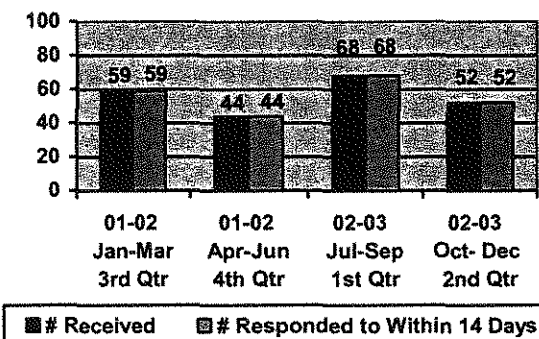
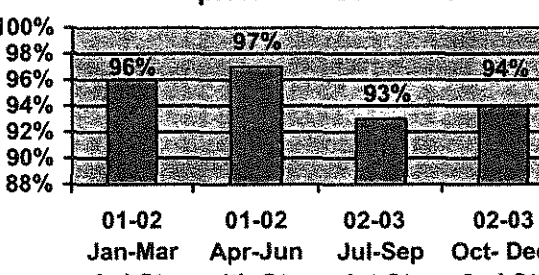
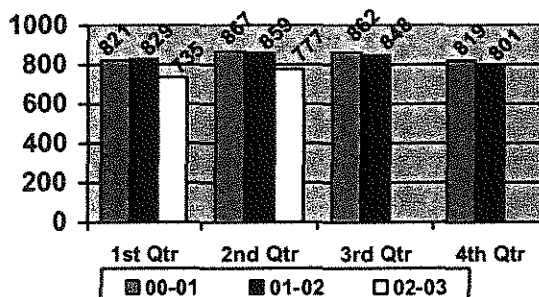
Key Efficiency Measures:

Performance Measure	Quarterly Results	2002-2003 Target	Comments										
<p>ET-1. ENGINEERING PROJECT DESIGN EFFECTIVENESS</p> <p>What: Percentage of Capital Improvement Project Designs completed on schedule.</p> <p>Why: Measures effectiveness of Engineering Design staff in assuring that CIP project designs are completed on schedule.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B.</p>	<p>Percentage of Capital Improvement Project Designs Completed on Schedule</p> <table border="1"> <tr> <th>Quarter</th> <th>Percentage</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>96%</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>95%</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>92%</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>92%</td> </tr> </table>	Quarter	Percentage	01-02 (Jan-Mar 3rd Qtr)	96%	01-02 (Apr-Jun 4th Qtr)	95%	02-03 (Jul-Sep 1st Qtr)	92%	02-03 (Oct-Dec 2nd Qtr)	92%	90% of CIP project designs are completed on schedule.	Target was exceeded even though staff vacancies exist. With a complete staff, additional projects can be delivered on schedule.
Quarter	Percentage												
01-02 (Jan-Mar 3rd Qtr)	96%												
01-02 (Apr-Jun 4th Qtr)	95%												
02-03 (Jul-Sep 1st Qtr)	92%												
02-03 (Oct-Dec 2nd Qtr)	92%												
<p>ET-2. ENGINEERING DESIGN EFFICIENCY</p> <p>What: Dollar value of projects completed per Full Time Equivalent (FTE) employee.</p> <p>Why: Measures efficiency of employees to ensure adequate completion of projects during the fiscal year.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B.</p>	<p>\$ Value of Projects Completed Per Each FTE Employee</p> <table border="1"> <tr> <th>Quarter</th> <th>Value (\$)</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>\$775</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>\$942</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>\$209</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>\$399</td> </tr> </table>	Quarter	Value (\$)	01-02 (Jan-Mar 3rd Qtr)	\$775	01-02 (Apr-Jun 4th Qtr)	\$942	02-03 (Jul-Sep 1st Qtr)	\$209	02-03 (Oct-Dec 2nd Qtr)	\$399	Each FTE employee completes the design of \$900,000 worth of projects (construction value) on average during the year.	The Engineering Design Section is on schedule to meet its target.
Quarter	Value (\$)												
01-02 (Jan-Mar 3rd Qtr)	\$775												
01-02 (Apr-Jun 4th Qtr)	\$942												
02-03 (Jul-Sep 1st Qtr)	\$209												
02-03 (Oct-Dec 2nd Qtr)	\$399												

**Quarterly Progress Report
Engineering and Transportation Department**

Performance Measure	Quarterly Results	2002-2003 Target	Comments															
<p>ET-3. DESIGN COST EFFICIENCY</p> <p>What: Average design cost as a percentage of construction value of work completed.</p> <p>Why: Measures efficiency of design cost as compared to at least 1% less than the benchmark weighted design cost.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B.</p>	<p>Average Design Cost as % of Construction Value of Work Completed</p> <table border="1"> <tr> <th>Quarter</th> <th>Design Cost %</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>9.70%</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>9.70%</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>9.40%</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>9.40%</td> </tr> </table>	Quarter	Design Cost %	01-02 (Jan-Mar 3rd Qtr)	9.70%	01-02 (Apr-Jun 4th Qtr)	9.70%	02-03 (Jul-Sep 1st Qtr)	9.40%	02-03 (Oct-Dec 2nd Qtr)	9.40%	<p>Design cost is at least 1% less than benchmark weighted design cost of 11%, expressed as a % of the construction value of work completed.</p>	<p>Targets were met during this quarter.</p>					
Quarter	Design Cost %																	
01-02 (Jan-Mar 3rd Qtr)	9.70%																	
01-02 (Apr-Jun 4th Qtr)	9.70%																	
02-03 (Jul-Sep 1st Qtr)	9.40%																	
02-03 (Oct-Dec 2nd Qtr)	9.40%																	
<p>ET-4. VALUE OF CONSTRUCTION PROJECTS COMPLETED</p> <p>What: Dollar value of Capital Improvement Projects (CIP) completed.</p> <p>Why: To ensure that projects scheduled for completion within a given fiscal year are delivered on time.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B.</p>	<p>\$ Value of Projects Completed (\$ Millions)</p> <table border="1"> <tr> <th>Quarter</th> <th>Value (\$ Millions)</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>\$1.2</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>\$3.8</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>\$1.4</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>\$3.8</td> </tr> </table>	Quarter	Value (\$ Millions)	01-02 (Jan-Mar 3rd Qtr)	\$1.2	01-02 (Apr-Jun 4th Qtr)	\$3.8	02-03 (Jul-Sep 1st Qtr)	\$1.4	02-03 (Oct-Dec 2nd Qtr)	\$3.8	<p>Target is 26 projects totaling \$10.0 million/year. Projects are currently on schedule for this fiscal year.</p>	<p>Level of construction on CIPs remains somewhat steady. Due to the quantity and value of the programmed CIP, some fluctuations will occur, particularly when multi-year projects are started in one fiscal year and completed in another.</p>					
Quarter	Value (\$ Millions)																	
01-02 (Jan-Mar 3rd Qtr)	\$1.2																	
01-02 (Apr-Jun 4th Qtr)	\$3.8																	
02-03 (Jul-Sep 1st Qtr)	\$1.4																	
02-03 (Oct-Dec 2nd Qtr)	\$3.8																	
<p>ET-5. STREET LIGHT MAINTENANCE EFFICIENCY</p> <p>What: Number of calls responded to within 5 days.</p> <p>Why: Measures efficiency of electrical crews in responding to calls for service and the efficiency of the preventive maintenance program.</p> <p>Strategic Plan Goal: I.A.1., I.A.2., III.A., III.B., S.A.1</p>	<p>Street Light Service Calls Responded to Within 5 Days</p> <table border="1"> <tr> <th>Quarter</th> <th># of Calls</th> <th># Responded/Repairs Made</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>~700</td> <td>~600</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>~650</td> <td>~550</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>~700</td> <td>~600</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>~700</td> <td>~600</td> </tr> </table>	Quarter	# of Calls	# Responded/Repairs Made	01-02 (Jan-Mar 3rd Qtr)	~700	~600	01-02 (Apr-Jun 4th Qtr)	~650	~550	02-03 (Jul-Sep 1st Qtr)	~700	~600	02-03 (Oct-Dec 2nd Qtr)	~700	~600	<p>Respond to calls within the 5-day turnaround time.</p>	<p>As the City grows and staffing levels remain unchanged, preventive maintenance schedules are compromised.</p>
Quarter	# of Calls	# Responded/Repairs Made																
01-02 (Jan-Mar 3rd Qtr)	~700	~600																
01-02 (Apr-Jun 4th Qtr)	~650	~550																
02-03 (Jul-Sep 1st Qtr)	~700	~600																
02-03 (Oct-Dec 2nd Qtr)	~700	~600																
<p>ET-6 TRAFFIC SIGNAL PREVENTIVE MAINTENANCE EFFICIENCY</p> <p>What: Number of traffic signals maintained per Full Time Equivalent (FTE) employee.</p> <p>Why: Measures efficiency of electrical crews on a per-structure basis and insures adequate service levels are maintained.</p> <p>Strategic Plan Goal: I.A.1., I.A.2., III.A., III.B., S.A.1</p>	<p>Traffic Signal Routine Maintenance Per FTE Employee</p> <table border="1"> <tr> <th>Quarter</th> <th>Maintenance Per FTE Employee</th> </tr> <tr> <td>01-02 (Jan-Mar 3rd Qtr)</td> <td>30</td> </tr> <tr> <td>01-02 (Apr-Jun 4th Qtr)</td> <td>7</td> </tr> <tr> <td>02-03 (Jul-Sep 1st Qtr)</td> <td>37</td> </tr> <tr> <td>02-03 (Oct-Dec 2nd Qtr)</td> <td>43</td> </tr> </table>	Quarter	Maintenance Per FTE Employee	01-02 (Jan-Mar 3rd Qtr)	30	01-02 (Apr-Jun 4th Qtr)	7	02-03 (Jul-Sep 1st Qtr)	37	02-03 (Oct-Dec 2nd Qtr)	43	<p>Goal is to visit every signal once every quarter.</p>	<p>Four electricians have been maintaining all of the traffic signal equipment since Fiscal Year 1993/94. Since that time the City's population has increased 6.4%, while its signal-related equipment has increased approximately 60%. As these systems age and staffing levels remain constant, maintenance frequencies will increase.</p>					
Quarter	Maintenance Per FTE Employee																	
01-02 (Jan-Mar 3rd Qtr)	30																	
01-02 (Apr-Jun 4th Qtr)	7																	
02-03 (Jul-Sep 1st Qtr)	37																	
02-03 (Oct-Dec 2nd Qtr)	43																	

Quarterly Progress Report Engineering and Transportation Department

Performance Measure	Quarterly Results	2002-2003 Target	Comments																				
<p>ET-7. RESPONSE TO CUSTOMER INQUIRIES/REQUESTS</p> <p>What: Number of customer inquiries/requests that are resolved within 14 days.</p> <p>Why: Measures the efficiency of staff in addressing public concerns regarding the safety of vehicles, pedestrians and bicyclists and improving these conditions in our neighborhoods.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B., S.A.1., S.A.3., S.B.4.</p>	<p align="center">Number of Citizen Inquiries/Request Received & Responded to Within 14 Days</p>  <table border="1"> <thead> <tr> <th>Quarter</th> <th># Received</th> <th># Responded to Within 14 Days</th> </tr> </thead> <tbody> <tr> <td>01-02 Jan-Mar 3rd Qtr</td> <td>59</td> <td>59</td> </tr> <tr> <td>01-02 Apr-Jun 4th Qtr</td> <td>44</td> <td>44</td> </tr> <tr> <td>02-03 Jul-Sep 1st Qtr</td> <td>68</td> <td>68</td> </tr> <tr> <td>02-03 Oct-Dec 2nd Qtr</td> <td>52</td> <td>52</td> </tr> </tbody> </table>	Quarter	# Received	# Responded to Within 14 Days	01-02 Jan-Mar 3rd Qtr	59	59	01-02 Apr-Jun 4th Qtr	44	44	02-03 Jul-Sep 1st Qtr	68	68	02-03 Oct-Dec 2nd Qtr	52	52	<p>This varies by the amount of customer inquiries. The goal is to respond as quickly as possible, and to resolve 90% of customer complaints and/or inquiries within 14 days.</p>	<p>These studies include gathering data, formalizing a recommendation, and providing a written response back to the customer addressing the request or complaint received.</p>					
Quarter	# Received	# Responded to Within 14 Days																					
01-02 Jan-Mar 3rd Qtr	59	59																					
01-02 Apr-Jun 4th Qtr	44	44																					
02-03 Jul-Sep 1st Qtr	68	68																					
02-03 Oct-Dec 2nd Qtr	52	52																					
<p>T-8 TRAFFIC PROJECT DESIGN EFFECTIVENESS</p> <p>What: Percentage of traffic Capital Improvement Project designs completed on schedule.</p> <p>Why: Measures the effectiveness of Traffic Engineering Design staff in assuring that CIP project designs are completed on schedule.</p> <p>Strategic Plan Goal: I.A.1., III.A., III.B.</p>	<p align="center">Percentage of Traffic Capital Improvement Project Designs Completed on Schedule</p>  <table border="1"> <thead> <tr> <th>Quarter</th> <th>Percentage Completed on Schedule</th> </tr> </thead> <tbody> <tr> <td>01-02 Jan-Mar 3rd Qtr</td> <td>96%</td> </tr> <tr> <td>01-02 Apr-Jun 4th Qtr</td> <td>97%</td> </tr> <tr> <td>02-03 Jul-Sep 1st Qtr</td> <td>93%</td> </tr> <tr> <td>02-03 Oct-Dec 2nd Qtr</td> <td>94%</td> </tr> </tbody> </table>	Quarter	Percentage Completed on Schedule	01-02 Jan-Mar 3rd Qtr	96%	01-02 Apr-Jun 4th Qtr	97%	02-03 Jul-Sep 1st Qtr	93%	02-03 Oct-Dec 2nd Qtr	94%	<p>90% of CIP project designs are completed on schedule.</p>	<p>Target was exceeded even though staff vacancies exist. With a complete staff, additional projects can be delivered on schedule.</p>										
Quarter	Percentage Completed on Schedule																						
01-02 Jan-Mar 3rd Qtr	96%																						
01-02 Apr-Jun 4th Qtr	97%																						
02-03 Jul-Sep 1st Qtr	93%																						
02-03 Oct-Dec 2nd Qtr	94%																						
<p>ET-9 PUBLIC TRANSIT RIDERSHIP EFFECTIVENESS</p> <p>What: Average quarterly ridership for fixed-route, Dial-A-Ride, BART & ACE Express.</p> <p>Why: Measures the effectiveness of service provided.</p> <p>Strategic Plan Goal: III.A., III.B., S.A.3., S.B.4.</p>	<p align="center">Average Quarterly Ridership</p>  <table border="1"> <thead> <tr> <th>Quarter</th> <th>00-01</th> <th>01-02</th> <th>02-03</th> </tr> </thead> <tbody> <tr> <td>1st Qtr</td> <td>821</td> <td>829</td> <td>735</td> </tr> <tr> <td>2nd Qtr</td> <td>861</td> <td>859</td> <td>777</td> </tr> <tr> <td>3rd Qtr</td> <td>882</td> <td>848</td> <td>818</td> </tr> <tr> <td>4th Qtr</td> <td>819</td> <td>801</td> <td>801</td> </tr> </tbody> </table>	Quarter	00-01	01-02	02-03	1st Qtr	821	829	735	2nd Qtr	861	859	777	3rd Qtr	882	848	818	4th Qtr	819	801	801	<p>Stabilize ridership levels.</p>	<p>The unreliability of the existing fare box system impedes accurate reporting. A new system is due for installation in FY 2003/04. Poor economy has caused ridership to decline.</p>
Quarter	00-01	01-02	02-03																				
1st Qtr	821	829	735																				
2nd Qtr	861	859	777																				
3rd Qtr	882	848	818																				
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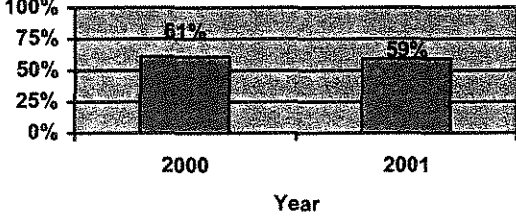
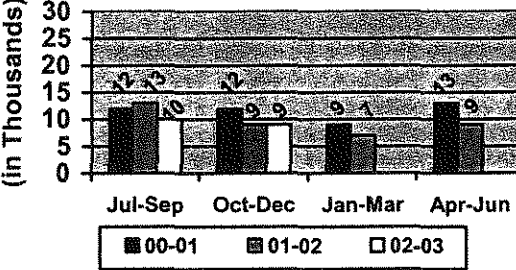
Quarterly Progress Report
Engineering and Transportation Department

Performance Measure	Quarterly Results	2002-2003 Target	Comments												
<p>10 TRANSIT COST PER PASSENGER</p> <p>What: Cost per passenger for fixed route, BART & ACE Express.</p> <p>Why: Measures cost-effectiveness of service provided.</p> <p>Strategic Plan Goal: III.A., III.B.</p>	<p align="center">MAX Cost Per Passenger</p> <table border="1"> <caption>MAX Cost Per Passenger Data</caption> <thead> <tr> <th>Quarter</th> <th>Cost (\$)</th> </tr> </thead> <tbody> <tr> <td>3rd Qtr 01-02</td> <td>2.00</td> </tr> <tr> <td>4th Qtr 01-02</td> <td>2.20</td> </tr> <tr> <td>1st Qtr 02-03</td> <td>2.50</td> </tr> <tr> <td>2nd Qtr 02-03</td> <td>2.30</td> </tr> </tbody> </table>	Quarter	Cost (\$)	3rd Qtr 01-02	2.00	4th Qtr 01-02	2.20	1st Qtr 02-03	2.50	2nd Qtr 02-03	2.30	<p>Limit cost increase to amount commensurate with the Consumer Price Index.</p>	<p>Fuel costs are rising and will challenge MAX operations cost containment.</p>		
Quarter	Cost (\$)														
3rd Qtr 01-02	2.00														
4th Qtr 01-02	2.20														
1st Qtr 02-03	2.50														
2nd Qtr 02-03	2.30														
<p>ET-11 TRANSIT SYSTEM EFFECTIVENESS</p> <p>What: Percentage of bus riders who rate transit services as "good" or "better".</p> <p>Why: Measures the effectiveness of the transit system services in meeting passenger needs.</p> <p>Strategic Plan Goal: III.A., III.B., S.A.3., S.B.4.</p>	<p align="center">Transit System Customer Satisfaction Survey</p> <table border="1"> <caption>Transit System Customer Satisfaction Survey Data</caption> <thead> <tr> <th>Category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Very Good</td> <td>33%</td> </tr> <tr> <td>Good</td> <td>47%</td> </tr> <tr> <td>Fair</td> <td>20%</td> </tr> <tr> <td>Poor</td> <td>10%</td> </tr> </tbody> </table>	Category	Percentage	Very Good	33%	Good	47%	Fair	20%	Poor	10%	<p>Maintain an overall average customer satisfaction rating of good or very good.</p>	<p>MAX customers are very happy with local transit services.</p>		
Category	Percentage														
Very Good	33%														
Good	47%														
Fair	20%														
Poor	10%														
<p>12 SOLID WASTE FUNDING EFFECTIVENESS</p> <p>What: Dollar value of revenue generated versus expenditures.</p> <p>Why: Measures the effectiveness of staff in pursuing funding to continue General Fund independency.</p> <p>Strategic Plan Goal: II.</p>	<p align="center">Revenue Generated vs Expenditures (Zero General Fund Support)</p> <table border="1"> <caption>Revenue Generated vs Expenditures Data</caption> <thead> <tr> <th>Fiscal Year</th> <th>Revenue Generated (\$K)</th> <th>Expenditures (\$K)</th> </tr> </thead> <tbody> <tr> <td>99-00</td> <td>433</td> <td>433</td> </tr> <tr> <td>00-01</td> <td>620</td> <td>620</td> </tr> <tr> <td>01-02</td> <td>780</td> <td>780</td> </tr> </tbody> </table>	Fiscal Year	Revenue Generated (\$K)	Expenditures (\$K)	99-00	433	433	00-01	620	620	01-02	780	780	<p>Target is to apply for 90% of grants available, and to offset 100% of expenses in the given fiscal year.</p>	<p>All grants offered that apply to our programs were applied for during this quarter.</p> <p>Solid Waste staff has continued to aggressively pursue all grant funding available to support the City's recycling programs. Additionally, staff has worked with the community and has been successful in establishing corporate and community partnerships, which has helped to further offset costs of programs. Increases in costs are attributable to the addition of new programs and/or the expansion of existing programs.</p>
Fiscal Year	Revenue Generated (\$K)	Expenditures (\$K)													
99-00	433	433													
00-01	620	620													
01-02	780	780													

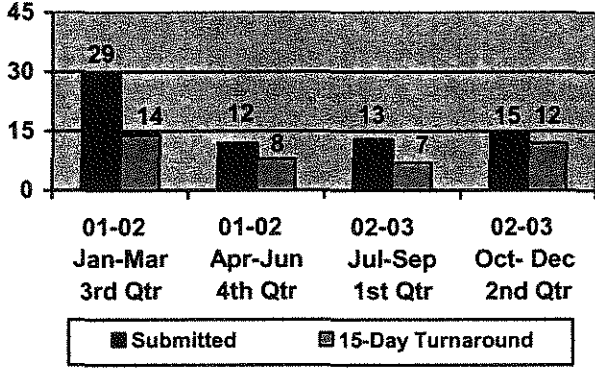
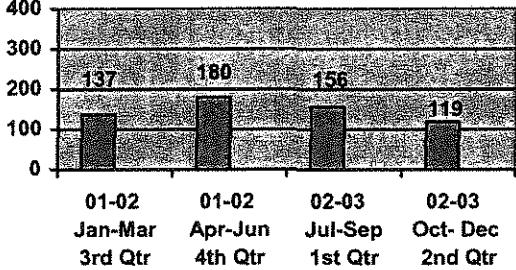
Attractively & Economically Vibrant Communities

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Quarterly Progress Report Engineering and Transportation Department

Performance Measure	Quarterly Results	2002-2003 Target	Comments																				
<p>ET-13 WASTE DIVERSION EFFECTIVENESS</p> <p>What: Total tons of waste diverted from disposal by Modesto residents/businesses annually</p> <p>Why: Measures the effectiveness of recycling, source reduction programs in reducing the amount of waste disposed.</p> <p>Strategic Plan Goal: II.</p>	<p style="text-align: center;">Annual Waste Diversion Percentage</p>  <table border="1"> <caption>Annual Waste Diversion Percentage</caption> <thead> <tr> <th>Year</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>2000</td> <td>61%</td> </tr> <tr> <td>2001</td> <td>59%</td> </tr> </tbody> </table>	Year	Percentage	2000	61%	2001	59%	<p>State-mandated 50% diversion rate.</p>	<p>Surpassed State-mandated 50% diversion rate required for year 2000 by 11%.</p>														
Year	Percentage																						
2000	61%																						
2001	59%																						
<p>ET-14 AIR SERVICE USAGE</p> <p>What: Total number of passengers enplaned and deplaned.</p> <p>Why: Measures the user-friendliness and air service activity levels.</p> <p>Strategic Plan Goal: III.B.</p>	<p style="text-align: center;">Total Number of Passengers Enplaned/Deplaned</p>  <table border="1"> <caption>Total Number of Passengers Enplaned/Deplaned (in thousands)</caption> <thead> <tr> <th>Quarter</th> <th>00-01</th> <th>01-02</th> <th>02-03</th> </tr> </thead> <tbody> <tr> <td>Jul-Sep</td> <td>12</td> <td>13</td> <td>10</td> </tr> <tr> <td>Oct-Dec</td> <td>12</td> <td>9</td> <td>9</td> </tr> <tr> <td>Jan-Mar</td> <td>9</td> <td>11</td> <td>9</td> </tr> <tr> <td>Apr-Jun</td> <td>13</td> <td>9</td> <td>9</td> </tr> </tbody> </table>	Quarter	00-01	01-02	02-03	Jul-Sep	12	13	10	Oct-Dec	12	9	9	Jan-Mar	9	11	9	Apr-Jun	13	9	9	<p>Stabilize and/or increase passenger usage of the airport, when compared with same quarters of previous years.</p>	<p>Air travel decreased 25% after the terrorist attack on 9/11/01. It is slowly starting to recover, however, it is also important to note that as a result, daily flights have been reduced by one flight per day.</p>
Quarter	00-01	01-02	02-03																				
Jul-Sep	12	13	10																				
Oct-Dec	12	9	9																				
Jan-Mar	9	11	9																				
Apr-Jun	13	9	9																				
<p>ET-15 UTILITY STUDIES, PROJECTS AND PROGRAMS</p> <p>What: Percentage of studies, projects and programs started within FY budgeted.</p> <p>Why: To ensure that studies, projects and programs, requiring Capital Planning, are completed so that projects can move forward.</p> <p>Strategic Plan Goal: I.A.1., I.B.1., I.C.1.</p>	<p>This is a new measure and staff will begin tracking this information in the quarter beginning April 1, 2003, using the new formulation.</p>	<p>90% of planned projects are started within FY budgeted. Unplanned projects are completed on schedule.</p>	<p>Demand for completion of unplanned projects is delaying start of planned projects</p>																				

**Quarterly Progress Report
Engineering and Transportation Department**

Performance Measure	Quarterly Results	2002-2003 Target	Comments												
<p>16 IMPROVEMENT PLANS/MAPS REVIEW EFFICIENCY</p> <p>What: Number of improvement plan maps reviewed and/or processed within 15 days.</p> <p>Why: Measures efficiency of Development Review staff in meeting demands of community.</p> <p>Strategic Plan Goal: I.A.1, I.A.2., S.A.3, S.B.4.</p>	<p style="text-align: center;">Improvement Plans/Maps Reviewed within 15 Days</p>  <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>01-02</td> <td>01-02</td> <td>02-03</td> <td>02-03</td> </tr> <tr> <td>Jan-Mar</td> <td>Apr-Jun</td> <td>Jul-Sep</td> <td>Oct- Dec</td> </tr> <tr> <td>3rd Qtr</td> <td>4th Qtr</td> <td>1st Qtr</td> <td>2nd Qtr</td> </tr> </table> <p style="text-align: center;">■ Submitted ■ 15-Day Turnaround</p>	01-02	01-02	02-03	02-03	Jan-Mar	Apr-Jun	Jul-Sep	Oct- Dec	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	<p>95% of initial plan checks completed within 15 days.</p>	<p>In FY 01-02, this staff was cut by three full-time positions.</p>
01-02	01-02	02-03	02-03												
Jan-Mar	Apr-Jun	Jul-Sep	Oct- Dec												
3rd Qtr	4th Qtr	1st Qtr	2nd Qtr												
<p>ET-17 PERMIT ISSUANCE ACTIVITY</p> <p>What: Number of permits issued per quarter.</p> <p>Why: Measures level of development activity in the community.</p> <p>Strategic Plan Goal: I.A.1, I.A.2., S.A.3., S.B.4.</p>	<p style="text-align: center;">Number of Permits Issued</p>  <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>01-02</td> <td>01-02</td> <td>02-03</td> <td>02-03</td> </tr> <tr> <td>Jan-Mar</td> <td>Apr-Jun</td> <td>Jul-Sep</td> <td>Oct- Dec</td> </tr> <tr> <td>3rd Qtr</td> <td>4th Qtr</td> <td>1st Qtr</td> <td>2nd Qtr</td> </tr> </table>	01-02	01-02	02-03	02-03	Jan-Mar	Apr-Jun	Jul-Sep	Oct- Dec	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	<p>Number of permits issued is dependent on development activity.</p>	
01-02	01-02	02-03	02-03												
Jan-Mar	Apr-Jun	Jul-Sep	Oct- Dec												
3rd Qtr	4th Qtr	1st Qtr	2nd Qtr												

Attractive & Economically Vibrant Communities

Quarterly Progress Report Operations & Maintenance Department

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Operations and Maintenance Department

Mission:

The mission of the Operations and Maintenance Department is to enhance the quality of community life by managing, operating, maintaining, and repairing the infrastructure of the City of Modesto.



Strategic Plan Goals:

- I.A.1. Our infrastructure is modern, efficient, effective, attractive and cost competitive.
- I.A.2. The City is attractive, clean and well landscaped.
- I.B.1. Water and wastewater system capacity and quality is sufficient for all current needs and future economic growth.
- I.C.1. Our stormwater system is aesthetically pleasing, drains quickly and efficiently, and meets all federal and state water quality standards.
- III.B. Our City transportation system is user-friendly, efficient and well maintained with good service levels and pollution reduction methods.
- S.A.3. The City provides excellent customer service from competent, motivated employees and encourages leadership at all levels to nurture innovation to maximize results.
- S.A.4. The City's workforce of represented and unrepresented employees delivers efficient and effective services enhanced by labor-management cooperation.
- S.B.4. The City's customers are very satisfied with the quality and efficiency of City services.

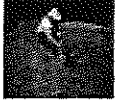


Key Efficiency Measures

Performance Measure	Results	2002-2003 Target	Comments															
<p>OM-1. EQUIPMENT AVAILABILITY (Fleet Services)</p> <p>What: Percentage of time equipment is on line and available for use, measured as a percentage of time equipment could have been available for use.</p> <p>Why: Measures level of availability of equipment (vehicles, machinery, police cars, etc.) for providing City services</p> <p>Strategic Plan Goals: I.A.2., S.A.III</p>	<p style="text-align: center;">Equipment Availability</p> <table border="1"> <caption>Equipment Availability Data</caption> <thead> <tr> <th>Fiscal Year</th> <th>Equipment Availability (%)</th> <th>Target (%)</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>96%</td> <td>95%</td> </tr> <tr> <td>00/01</td> <td>96%</td> <td>95%</td> </tr> <tr> <td>01/02</td> <td>96%</td> <td>95%</td> </tr> <tr> <td>02/03</td> <td>95%</td> <td>95%</td> </tr> </tbody> </table>	Fiscal Year	Equipment Availability (%)	Target (%)	99/00	96%	95%	00/01	96%	95%	01/02	96%	95%	02/03	95%	95%	<p>Equipment is online and available 95% of the time.</p>	<p>Equipment availability is essential for effective delivery of services. Fleet Services Crews work extended hours in the evenings and on weekends to minimize the impact of equipment maintenance and repairs and continue to meet our targets in this area.</p>
Fiscal Year	Equipment Availability (%)	Target (%)																
99/00	96%	95%																
00/01	96%	95%																
01/02	96%	95%																
02/03	95%	95%																
<p>OM-2. EQUIPMENT BREAKDOWN FREQUENCY (Fleet Services)</p> <p>What: Number of breakdowns occurring while equipment is in service, measured as the number of fleet breakdowns per fleet miles driven.</p> <p>Why: The effective response force is needed to initiate an effective attack on active, developing structure fires.</p> <p>Strategic Plan Goals: H.III., C.IV.</p>	<p style="text-align: center;">Breakdown Frequency</p> <table border="1"> <caption>Breakdown Frequency Data</caption> <thead> <tr> <th>Fiscal Year</th> <th>Breakdown Frequency</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>99/00</td> <td>1.4</td> <td>1.3</td> </tr> <tr> <td>00/01</td> <td>1.2</td> <td>1.3</td> </tr> <tr> <td>01/02</td> <td>1.4</td> <td>1.3</td> </tr> <tr> <td>02/03</td> <td>1.3</td> <td>1.3</td> </tr> </tbody> </table>	Fiscal Year	Breakdown Frequency	Target	99/00	1.4	1.3	00/01	1.2	1.3	01/02	1.4	1.3	02/03	1.3	1.3	<p>Number of breakdowns per 1,000 miles driven does not exceed 1.3.</p>	<p>During Fiscal Year 01-02 we exceeded our standard due to a variety of factors. We are addressing these issues through reviewing and test driving repairs before equipment is released and through modifications of our preventive maintenance schedule.</p>
Fiscal Year	Breakdown Frequency	Target																
99/00	1.4	1.3																
00/01	1.2	1.3																
01/02	1.4	1.3																
02/03	1.3	1.3																

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Quarterly Progress Report Operations & Maintenance Department

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Performance Measure	Results	2002-2003 Target	Comments					
OM-3. PARKS AND LANDSCAPE MAINTENANCE SERVICE LEVEL (Parks)		<p>The City's park maintenance service level rating will be at or near a "good" rating value of 3.</p>	<p>Since 1988-1989, the ratio of acres of developed park per full-time equivalent employee (FTE) has increased from 6.3 acres/FTE to 11.46 acres/FTE in 2002-2003. This increase is a result of decreasing labor resources and increasing park acreage. Consequently, service level ratings have declined in recent years.</p>					
<p>What: The City's park maintenance service level rating will be at or near a "good" rating value of 3.</p>	<p>Service Level Ratings* Excellent = 4 Good = 3 Fair = 2 Poor = 1</p>	<p>Service Level Ratings* Excellent = 4 Good = 3 Fair = 2 Poor = 1 *Based upon frequency of performance of parks maintenance tasks.</p>						
<p>Why: Rating is based on the frequency of performing a broad cross section of maintenance activities.</p>	<p>Strategic Plan Goals: I.A.1., I.A.2.</p>	<p>OM-4. PREVENTABLE PUBLIC INJURIES (Parks)</p>		<p>Number of preventable public injuries is less than 4 per fiscal year.</p>	<p>The City's Parks Maintenance crews continue to have an excellent safety record for preventable public injuries.</p>			
<p>What: Number of preventable public injuries occurring in the City's parks per fiscal year.</p>	<p>Number of Injuries Target = < 4</p>		<p>Why: Measures the effectiveness of maintenance crews in keeping parks safe and well-maintained.</p>	<p>Strategic Plan Goals: I.A.1., I.A.2.</p>	<p>OM-5. FACILITIES PREVENTIVE MAINTENANCE EFFECTIVENESS (Building Services)</p>		<p>On an annual basis, 90% of all scheduled facilities preventive maintenance is completed.</p>	<p>Since 1999-2000, staffing levels have stayed constant while the number of buildings maintained by Building Services continues to climb. In the 03-04 Operating Budget an additional maintenance position is requested to address deficiencies in this area.</p>
<p>What: Percent of facilities preventive maintenance performed on schedule.</p>	<p>Percent of Facilities Target</p>		<p>Why: Measures the effectiveness of maintenance crews in keeping buildings safe and well-maintained through preventive maintenance.</p>	<p>Strategic Plan Goals: I.A.1., I.A.2.</p>				

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Quarterly Progress Report Operations & Maintenance Department




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Performance Measure	Results	2002-2003 Target	Comments																		
<p>OM-6. CUSTOMER SATISFACTION (Building Services)</p> <p>What: Percent of users who rate Building Services Division services as "Good" or better.</p> <p>Why: Measures the effectiveness of maintenance crews in maintaining the City's buildings and facilities.</p> <p>Strategic Plan Goals: I.A.1, I.A.2, I.A.3, I.B.4</p>	<p>Building Services Customer Satisfaction</p> <table border="1"> <caption>Building Services Customer Satisfaction Data</caption> <thead> <tr> <th>Year</th> <th>Percent Rated Good or Better</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>1998</td> <td>84%</td> <td>90%</td> </tr> <tr> <td>1999</td> <td>85%</td> <td>90%</td> </tr> <tr> <td>2000</td> <td>86%</td> <td>90%</td> </tr> <tr> <td>2001</td> <td>87%</td> <td>90%</td> </tr> <tr> <td>2002</td> <td>90%</td> <td>90%</td> </tr> </tbody> </table>	Year	Percent Rated Good or Better	Target	1998	84%	90%	1999	85%	90%	2000	86%	90%	2001	87%	90%	2002	90%	90%	<p>On an annual customer satisfaction survey, 90% of customers will rate Building Maintenance Services as "Good" or better.</p>	<p>Customer service is the top priority of the Building Services Division. Annual survey results continue to show a very positive response to the services provided by this unit.</p>
Year	Percent Rated Good or Better	Target																			
1998	84%	90%																			
1999	85%	90%																			
2000	86%	90%																			
2001	87%	90%																			
2002	90%	90%																			
<p>OM-7. STORMWATER CONTAINMENT EFFECTIVENESS (Stormwater & Wastewater Collections)</p> <p>What: Number of rockwells cleaned on an annual basis.</p> <p>Why: Measures the effectiveness of maintenance crews in preventing street flooding through cleaning the City's rockwells.</p> <p>Strategic Plan Goals: I.A.1, I.C.1</p>	<p>Stormwater Containment Effectiveness</p> <table border="1"> <caption>Stormwater Containment Effectiveness Data</caption> <thead> <tr> <th>Year</th> <th>Number of Rockwells Cleaned</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>1998</td> <td>4,672</td> <td>10,000</td> </tr> <tr> <td>1999</td> <td>9,590</td> <td>10,000</td> </tr> <tr> <td>2000</td> <td>6,649</td> <td>10,000</td> </tr> <tr> <td>2001</td> <td>7,939</td> <td>10,000</td> </tr> <tr> <td>2002</td> <td>7,450</td> <td>10,000</td> </tr> </tbody> </table>	Year	Number of Rockwells Cleaned	Target	1998	4,672	10,000	1999	9,590	10,000	2000	6,649	10,000	2001	7,939	10,000	2002	7,450	10,000	<p>One hundred percent (100%) of the City's 10,000 rockwells are cleaned on an annual basis.</p>	<p>Due to budgetary and staffing constraints, we have been unable to clean all of the City's rockwells in recent years, though the general trend is upward. Rockwell cleaning reduces the amount of stormwater remaining in the street after storm events.</p>
Year	Number of Rockwells Cleaned	Target																			
1998	4,672	10,000																			
1999	9,590	10,000																			
2000	6,649	10,000																			
2001	7,939	10,000																			
2002	7,450	10,000																			
<p>OM-8. SANITARY SEWER EFFECTIVENESS (Stormwater & Wastewater Collections)</p> <p>What: Cost per mile of maintaining the City's sanitary sewer system compared to Central Valley Wastewater Managers Association (CVWMA) systems and a national survey of similar-sized systems.</p> <p>Why: Measures effectiveness of City staff in maintaining sanitary sewer collection system.</p> <p>Strategic Plan Goals: I.A.1, I.B.1</p>	<p>Sanitary Sewer Effectiveness</p> <table border="1"> <caption>Sanitary Sewer Effectiveness Data</caption> <thead> <tr> <th>System</th> <th>Annual Cost Per Mile</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>CVWMA</td> <td>\$6,966</td> <td>\$8,000</td> </tr> <tr> <td>Sacramento</td> <td>\$16,329</td> <td>\$8,000</td> </tr> <tr> <td>Modesto</td> <td>\$7,905</td> <td>\$8,000</td> </tr> </tbody> </table>	System	Annual Cost Per Mile	Target	CVWMA	\$6,966	\$8,000	Sacramento	\$16,329	\$8,000	Modesto	\$7,905	\$8,000	<p>Cost per mile for maintenance of the City's sanitary sewer system is less than or equal to the national average of \$8,000 for similar-sized systems.</p>	<p>The City's maintenance cost of \$7,905 per mile is less than the target and is considerably less than the comparison City of Sacramento.</p>						
System	Annual Cost Per Mile	Target																			
CVWMA	\$6,966	\$8,000																			
Sacramento	\$16,329	\$8,000																			
Modesto	\$7,905	\$8,000																			
<p>OM-9. WASTEWATER TREATMENT EFFICIENCY (Wastewater Treatment)</p> <p>What: Cost per 1,000 pounds of BOD (Biochemical Oxygen Demand) treated compared to costs for other similar agencies.</p> <p>Why: Measures the efficiency of the City's wastewater treatment system when compared to other Central Valley cities.</p> <p>Strategic Plan Goals: I.A.1, I.B.1</p>	<p>Wastewater Treatment Efficiency</p> <table border="1"> <caption>Wastewater Treatment Efficiency Data</caption> <thead> <tr> <th>City</th> <th>Cost per 1,000 lbs BOD</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>Modesto</td> <td>\$197</td> <td>\$312</td> </tr> <tr> <td>Fresno</td> <td>\$325</td> <td>\$312</td> </tr> <tr> <td>Sacramento</td> <td>\$326</td> <td>\$312</td> </tr> <tr> <td>Stockton</td> <td>\$312</td> <td>\$312</td> </tr> </tbody> </table>	City	Cost per 1,000 lbs BOD	Target	Modesto	\$197	\$312	Fresno	\$325	\$312	Sacramento	\$326	\$312	Stockton	\$312	\$312	<p>City of Modesto costs per 1,000 pounds of BOD are less than or equal to the average costs for similar agencies (Sacramento, Fresno & Stockton). Target = \$312.</p>	<p>Modesto costs per 1,000 BOD treated are considerably lower than those for similar agencies. These efficiencies can be attributed to the use of natural systems such as the ponds and land discharge of cannery waste. In addition, resources including energy and personnel are effectively targeted.</p>			
City	Cost per 1,000 lbs BOD	Target																			
Modesto	\$197	\$312																			
Fresno	\$325	\$312																			
Sacramento	\$326	\$312																			
Stockton	\$312	\$312																			

Attractive & Economically Vibrant Communities

Quarterly Progress Report Operations & Maintenance Department

Modesto: A healthy, safe, attractive, economically vibrant, socially diverse and culturally rich city with a strong sense of identity and pride, a community engaged in the practice of citizenship with governance based on the principle of stewardship.

Performance Measure	Results	2002-2003 Target	Comments																																							
<p>OM-10. GROUNDWATER DELIVERY EFFECTIVENESS (Water Operations)</p> <p>What: Percent of groundwater capacity in service on a monthly basis.</p> <p>Why: Measures the City's ability to meet the community's water supply requirements.</p> <p>Strategic Plan Goals: I.A.1, I.B.1</p>	<table border="1"> <caption>Groundwater Delivery Effectiveness</caption> <thead> <tr> <th>Month</th> <th>% In Service</th> <th>Target</th> </tr> </thead> <tbody> <tr><td>Jul 02</td><td>92%</td><td>90%</td></tr> <tr><td>Aug 02</td><td>90%</td><td>90%</td></tr> <tr><td>Sep 02</td><td>93%</td><td>90%</td></tr> <tr><td>Oct 02</td><td>91%</td><td>90%</td></tr> <tr><td>Nov 02</td><td>88%</td><td>90%</td></tr> <tr><td>Dec 02</td><td>85%</td><td>90%</td></tr> <tr><td>Jan 03</td><td>84%</td><td>90%</td></tr> <tr><td>Feb 03</td><td>84%</td><td>90%</td></tr> <tr><td>Mar 03</td><td>84%</td><td>90%</td></tr> <tr><td>Apr 03</td><td>84%</td><td>90%</td></tr> <tr><td>May 03</td><td>84%</td><td>90%</td></tr> <tr><td>Jun 03</td><td>84%</td><td>90%</td></tr> </tbody> </table>	Month	% In Service	Target	Jul 02	92%	90%	Aug 02	90%	90%	Sep 02	93%	90%	Oct 02	91%	90%	Nov 02	88%	90%	Dec 02	85%	90%	Jan 03	84%	90%	Feb 03	84%	90%	Mar 03	84%	90%	Apr 03	84%	90%	May 03	84%	90%	Jun 03	84%	90%	<p>Ninety percent of the water system's groundwater capacity is available for water delivery.</p>	<p>Due to discharge limitations placed on our wells, we have been unable to backwash several facilities and have been forced to take them offline. Consequently, we have been unable to make our target this year. We are presently working on obtaining an industrial discharge permit to address this problem.</p> 
Month	% In Service	Target																																								
Jul 02	92%	90%																																								
Aug 02	90%	90%																																								
Sep 02	93%	90%																																								
Oct 02	91%	90%																																								
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Apr 03	84%	90%																																								
May 03	84%	90%																																								
Jun 03	84%	90%																																								
<p>OM-11. GROUNDWATER EFFICIENCY (Water Operations)</p> <p>What: Number of groundwater wells per full-time equivalent (FTE) employee.</p> <p>Why: Measures the ability of staff to effectively maintain the City's well system and ensure appropriate water sampling is performed, per Department of Health Services regulations.</p> <p>Strategic Plan Goals: I.A.1, I.B.1.</p>	<table border="1"> <caption>GROUNDWATER EFFICIENCY</caption> <thead> <tr> <th>Year</th> <th>Wells per FTE</th> <th>Target</th> </tr> </thead> <tbody> <tr><td>2001</td><td>18</td><td>9</td></tr> <tr><td>2002</td><td>18</td><td>9</td></tr> <tr><td>2003</td><td>16</td><td>9</td></tr> </tbody> </table>	Year	Wells per FTE	Target	2001	18	9	2002	18	9	2003	16	9	<p>Number of groundwater wells per FTE is less than or equal to the industry standard of 1 FTE per every 9 wells, as determined by a survey of area water utilities and a review of industry guidelines.</p>	<p>In the current fiscal year, we have 8 FTE for 128 wells. This equates to 1 FTE per 16 wells. In the Central Valley, the standard is 1 FTE per 9 wells. We are considerably higher than the standard and this trend is continuing. In the 03-04 Budget, we have requested additional FTE to address this issue.</p> 																											
Year	Wells per FTE	Target																																								
2001	18	9																																								
2002	18	9																																								
2003	16	9																																								
<p>OM-12. STAFF EXPERTISE (Water Operations)</p> <p>What: Percentage of full-time field staff in possession of a Grade 2 or higher Water Distribution certification.</p> <p>Why: Measures the City's ability to comply with certification requirements issued by the Department of Health Services.</p> <p>Strategic Plan Goals: I.A.2, S.B.4</p>	<table border="1"> <caption>STAFF EXPERTISE</caption> <thead> <tr> <th>Year</th> <th>% Grade 2 or above</th> <th>Target</th> </tr> </thead> <tbody> <tr><td>2003</td><td>66%</td><td>75%</td></tr> </tbody> </table>	Year	% Grade 2 or above	Target	2003	66%	75%	<p>Seventy-five percent (75%) of all field staff possess a valid Grade 2 or higher certification in Water Distribution.</p>	<p>Regulatory changes effective July 2000 now require certification and continuing education credits for any person making process control changes to the water system. Since that time, we have been making strides to reach our target of 75% certification and will likely reach that goal by 03-04.</p> 																																	
Year	% Grade 2 or above	Target																																								
2003	66%	75%																																								

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Performance Measure	Results	2002-2003 Target	Comments															
OM-13. GREEN WASTE REMOVAL (Community Forestry)	<p>Green Waste Removal</p> <table border="1"> <tr> <th>Fiscal Year</th> <th>Tons Green Waste / FTE</th> <th>Target</th> </tr> <tr> <td>99/00</td> <td>2439</td> <td>2000</td> </tr> <tr> <td>00/01</td> <td>1292</td> <td>2000</td> </tr> <tr> <td>'01/02</td> <td>2133</td> <td>2000</td> </tr> <tr> <td>'02/03</td> <td>2400</td> <td>2000</td> </tr> </table>	Fiscal Year	Tons Green Waste / FTE	Target	99/00	2439	2000	00/01	1292	2000	'01/02	2133	2000	'02/03	2400	2000	<p>City crews remove 2000 tons or more of green waste per FTE.</p>	<p>Tonnage of green waste removed continues to rise. The recent ordinance change approved by Council will provide for additional collection efficiencies.</p>
Fiscal Year	Tons Green Waste / FTE	Target																
99/00	2439	2000																
00/01	1292	2000																
'01/02	2133	2000																
'02/03	2400	2000																
<p>What: Tons of green waste removed per Full Time Equivalent (FTE) employee.</p> <p>Why: Measures ability to effectively and efficiently remove green waste.</p> <p>Strategic Plan Goals: I.A.2, S.B.4.</p>																		
OM-14. STREET TREE MAINTENANCE (Community Forestry)	<p>Street Tree Maintenance</p> <table border="1"> <tr> <th>Fiscal Year</th> <th>Street Trees / FTE</th> <th>Target</th> </tr> <tr> <td>'99-00</td> <td>3597</td> <td>3500</td> </tr> <tr> <td>'00-01</td> <td>3645</td> <td>3500</td> </tr> <tr> <td>'01-02</td> <td>3547</td> <td>3500</td> </tr> <tr> <td>'02-03</td> <td>3810</td> <td>3500</td> </tr> </table>	Fiscal Year	Street Trees / FTE	Target	'99-00	3597	3500	'00-01	3645	3500	'01-02	3547	3500	'02-03	3810	3500	<p>Number of street trees per Full Time Equivalent employee is less than or equal to 3500 in order to maintain a five-year Pruning Cycle.</p>	<p>In 02-03, the Pruning Cycle was extended by 6 months due to hiring constraints. Service levels have dropped for removals, stump digging and root cutting due to budget reductions. Replanting needs have been met by a grant, replacing half of the vacant tree locations.</p>
Fiscal Year	Street Trees / FTE	Target																
'99-00	3597	3500																
'00-01	3645	3500																
'01-02	3547	3500																
'02-03	3810	3500																
<p>What: Number of City street trees per Full Time Equivalent (FTE) employee.</p> <p>Why: Measures ability of staff to effectively maintain the City's Street Tree investment.</p> <p>Strategic Plan Goals: I.A.1, I.A.2.</p>																		
OM-15. STREET MAINTENANCE EFFORT (Streets & Traffic Operations)	<p>Street Maintenance Effort</p> <table border="1"> <tr> <th>Fiscal Year</th> <th>Maintenance Cycle (Years)</th> <th>Target</th> </tr> <tr> <td>99/00</td> <td>102</td> <td>40</td> </tr> <tr> <td>00/01</td> <td>70</td> <td>40</td> </tr> <tr> <td>'01/02</td> <td>63</td> <td>40</td> </tr> <tr> <td>'02/03</td> <td>63</td> <td>40</td> </tr> </table>	Fiscal Year	Maintenance Cycle (Years)	Target	99/00	102	40	00/01	70	40	'01/02	63	40	'02/03	63	40	<p>Street paving cycle is less than or equal to the target of 40 years for optimal pavement management.</p>	<p>Increases in funding have improved our ability to make a dent in deferred maintenance needs. Recent budgetary constraints will likely drive this number back up to pre-2000 levels, thereby reducing our ability to maintain our present pavement status.</p>
Fiscal Year	Maintenance Cycle (Years)	Target																
99/00	102	40																
00/01	70	40																
'01/02	63	40																
'02/03	63	40																
<p>What: Street maintenance cycle.</p> <p>Why: Measures cycle time for paving of streets.</p> <p>Strategic Plan Goals: I.A.1, III.B.</p>																		

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-493**

A RESOLUTION AWARDED THE BID AND APPROVING A \$318,933 CONTRACT WITH CLAYBORN CONTRACTING GROUP, FOR THE PROJECT TITLED "CONSTRUCT ELECTRICAL VAULT BUILDING, RELOCATE/UPGRADE ELECTRICAL VAULT EQUIPMENT, INSTALL EMERGENCY GENERATOR," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the CONSTRUCT ELECTRICAL VAULT BUILDING, RELOCATE/UPGRADE ELECTRICAL VAULT EQUIPMENT, INSTALL EMERGENCY GENERATOR project were opened at 11:00 a.m. on July 22, 2003 and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$318,933.00 received from Clayborn Contracting Group, be accepted as the lowest responsible bid and the contract be awarded to Clayborn Contracting Group,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$318,933.00, and hereby awards Clayborn Contracting Group the contract titled "CONSTRUCT ELECTRICAL VAULT BUILDING, RELOCATE/UPGRADE ELECTRICAL VAULT EQUIPMENT, INSTALL EMERGENCY GENERATOR."

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 September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-494**

**A RESOLUTION APPROVING AN AMENDMENT TO SEWER
REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND
PHILLIP G. AND WILMA M. SILVA FOR AN 8" SEWER LATERAL IN LONE
PALM AVENUE**

WHEREAS, PHILLIP G. AND WILMA M. SILVA (Owners), installed 973
lineal feet of 8" sanitary sewer lateral in Lone Palm Avenue, and

WHEREAS, the sanitary sewer lateral will also serve other properties on Lone
Palm Avenue and the owners have requested reimbursement for a portion of the costs,
and

WHEREAS, on April 7, 1992, City Council Resolution 92-161 approved a sewer
reimbursement agreement for a portion of the costs of installation, and

WHEREAS, the agreement provides that the City will collect sewer lateral fees
from adjacent property owners as they connect to the sewer lateral and that said fees will
be used to reimburse OWNER for a portion of its costs of installing the sewer lateral and
appurtenances, and

WHEREAS, the agreement had a term of ten (10) years, after which Owners'
right to reimbursement would cease, and

WHEREAS, the former Director of Community Development Director
recommended that the agreement be extended for an additional term to allow ample time
for future connections to the sewer lateral to be made to facilitate reimbursement to
Owners, and

WHEREAS, for unknown reasons, said agreement was never amended and Owners have renewed their request for an extension of the agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the term of the agreement between the CITY OF MODESTO and PHILLIP G. AND WILMA M. SILVA related to the reimbursement for installation of a sanitary sewer lateral be extended for an additional ten (10) years, and

BE IT FURTHER RESOLVED that the City Manager 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 September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-495**

A RESOLUTION ACCEPTING THE PROJECT TITLED "POLICE OUTDOOR SHOOTING RANGE EQUIPMENT" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Police Outdoor Shooting Range Equipment", has been completed by Action Target, Inc., in accordance with the contract agreement dated October 16, 2001,

NOW, THEREFORE, BE IT RESOLVED that the "Police Outdoor Shooting Range Equipment" project is hereby accepted from said contractor, Action Target, Inc., that City Staff is hereby directed to file the Notice of Completion with the Recorder of Stanislaus County and that payment of amounts due totaling \$128,834.25 as provided in the contract, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM: ,

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-496**

**RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE
“2001-2002 PAVEMENT MAINTENANCE - W. ORANGEBURG AVENUE
FROM MARTIN AVENUE TO MCHENRY AVENUE” PROJECT AS
COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF
COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE
TOTALING \$1,360,655.91 PER THE CONTRACT**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled “2001-2002 Pavement Maintenance – W. Orangeburg Avenue from Martin Avenue to McHenry Avenue”, has been completed by George Reed, Inc., in accordance with the contract agreement dated August 8, 2002,

NOW, THEREFORE, BE IT RESOLVED that the “2001-2002 Pavement Maintenance – W. Orangeburg Avenue from Martin Avenue to McHenry Avenue” project be accepted from said contractor, by George Reed, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,360,655.91 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-497**

A RESOLUTION ACCEPTING THE WORK BY BOLLO CONSTRUCTION, INC., FOR THE “RENOVATION OF EXISTING POLICE HEADQUARTERS BUILDING – BID PACKAGE NO. 3” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$2,798,429.39 PER THE CONTRACT

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled “Renovation of Existing Police Headquarters Building – Bid Package No. 3”, has been completed by Bollo Construction, Inc., in accordance with the contract agreement dated December 11, 2001,

NOW, THEREFORE, BE IT RESOLVED that the “Renovation of Existing Police Headquarters Building – Bid Package No. 3” project be accepted from said contractor, Bollo Construction, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$2,798,429.39 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-498**

A RESOLUTION INCREASING THE DIRECTOR OF ENGINEERING AND TRANSPORTATION'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "RENOVATION OF EXISTING POLICE HEADQUARTERS BUILDING – BID PACKAGE NO. 3" PROJECT FROM \$518,186 TO \$518,700, OR 22.75% OF THE ORIGINAL CONTRACT PRICE WITH BOLLO CONSTRUCTION, INC.

WHEREAS, on December 11, 2001, the City Council awarded a \$2,279,820 contract to Bollo Construction, Inc., to construct the Renovation of Existing Police Headquarters Building – Bid Package No. 3 project, and

WHEREAS, the contractor started work on February 4, 2002, and the work is complete, and

WHEREAS, on July 19, 1994, by Resolution No. 94-443, Council authorized the Director of Engineering and Transportation to approve change orders up to a cumulative amount of 8 percent of the original contract price on a project this size, and

WHEREAS, on April 23, 2002, by Resolution No. 2002-207, the City Council increased the Director of Engineering and Transportation's change order authority from 8 percent to 19 percent, and

WHEREAS, on October 8, 2002, by Resolution No. 2002-493, the City Council increased the Director of Engineering and Transportation's change order authority to \$518,186,

WHEREAS, during the course of construction 40 change orders were issued and the contractor was required to perform additional work that was not covered under the original contract, and

WHEREAS, the total cost of the extra work is approximately \$518,610, an amount which exceeds the Director's current authority for change orders for the project, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of \$518,186, and an increase in authority is needed to pay for the additional work performed by the Contractor,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Engineering and Transportation Director's authority level to issue change orders, from \$518,186 to \$518,700 for the project entitled "Renovation of Existing Police Headquarters Building – Bid Package No. 3."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-499**

**A RESOLUTION ACCEPTING THE PROJECT TITLED "MODESTO
CITY/COUNTY AIRPORT T-HANGAR K CONSTRUCTION" AS COMPLETE**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Modesto City/County Airport T-Hangar K Construction", has been completed by Paul Anderson Construction, in accordance with the contract agreement dated April 24, 2001,

NOW, THEREFORE, BE IT RESOLVED that the "Modesto City/County Airport T-Hangar K Construction" project be accepted from said contractor, Paul Anderson Construction, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$386,332 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-500**

**A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF
MODESTO AND RESCINDING RESOLUTION NO. 2001-580**

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

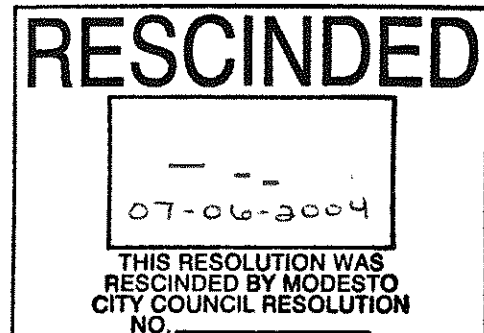
WHEREAS, the Downtown Redevelopment Committee, has requested angle parking on the east side of 8th Street between J & K Streets and between K & L Streets to relieve some of the parking demand at the 9th Street Garage, and

WHEREAS, City staff has reviewed the geometrics and traffic flow at this location and has concluded that angled parking can be accommodated as requested without creating a hazard and without impeding traffic flow, and

WHEREAS, the Economic Development Committee considered the additional angle parking on 8th Street at its August 11, 2003, meeting and supported staff's recommendation,

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:



2004-333

- 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)
- 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)

SECTION 2. The Engineering and Transportation Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2001-580 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-501**

**A RESOLUTION ADOPTING BUSINESS LICENSE TAX APPORTIONMENT
GUIDELINES PURSUANT TO SECTION 6-1.436 OF THE MODESTO
MUNICIPAL CODE.**

WHEREAS, pursuant to Section 6-1.436 of the Modesto Municipal Code,
the City Council is authorized to issue business license tax apportionment guidelines,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
Modesto that the Council hereby issues the Business License Tax Apportionment
Guidelines set forth in **Attachment "A"**. The Business License Tax Reporting Form set
forth in **Attachments "B" and "C"** are not adopted. It is anticipated that similar forms
will be adopted by the Council after further study and review.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
BUSINESS LICENSE TAX
APPORTIONMENT GUIDELINES

A. Preamble

Pursuant to Section 6-1.436 of the Modesto Municipal Code, the City Council hereby issues the following apportionment guidelines to instruct taxpayers who do business in more than one city to divide their gross receipts between those cities to reduce the risk of multiple taxation. These guidelines are intended to guide City officials and their representatives in administering and enforcing the business license tax ordinance.

B. Apportioning Taxpayers

For purposes of the business license tax, also known as the mil tax, the City of Modesto ("City") regards as taxable gross receipts all receipts derived from the taxpayer's fixed place of business in the City, or from the taxpayer's business operations performed in the City, as recorded on the records of the business. If a portion of such receipts is derived from business conducted outside the City limits, the taxpayer may apportion its receipts between the jurisdictions in which it does business when the following conditions are met:

1. The activity or portion of activity for which apportionment is requested is part of the business' own operations and it is conducted internally by this business completely outside the City limits; and
2. The taxpayer's business records support with clarity the place of such outside activity and the receipts connected therewith.

C. The Apportionment Factors

Receipts are apportioned with emphasis on different aspects of a taxpayer's operations. The taxpayer's business can be divided into as many of the eight economic components as apply to the taxpayer's activity.

If you apply all of the economic components and the maximum percentage for each, one will account for more than 100% of the value of his or her receipts. But by their terms, some of the components apply only to retailers and other sellers of goods and other components apply only to service providers. Therefore, no taxpayer will apply the maximum of each component to its gross receipts.

1. The Eight Factors

An apportioning taxpayer may reduce its total receipts from its operation of its City business or from work done in the City by the percentage (not exceeding the cap)

ATTACHMENT- A

reflecting various kinds of activity that occur outside the city: (1) if the relevant sales or a portion thereof are negotiated or solicited elsewhere, the taxpayer may reduce its base up to 25%; (2) if the sales office or the place where contracts or orders are accepted and/or processed is elsewhere, the taxpayer may reduce its base up to 15%; (3) if the merchandise was stored elsewhere immediately prior to delivery, the taxpayer may reduce its base by up to 20%; (4) in the case of service providers, if the location of the principal place of business of the service providers who actually worked on the project is outside the City, the taxpayer may reduce its base up to 30%; (5) if the ultimate point of delivery is out of the City, the taxpayer may reduce its base by up to 10%; (6) if the service is actually performed outside the City, the taxpayer may reduce its base by up to 30%; (7) if the billing office is outside the City, the taxpayer may reduce its base by up to 5%; and (8) if the collections office is elsewhere, the taxpayer may reduce its base by up to 5%.

These factors are set forth in the following table:

<u>FACTOR</u>	<u>RANGE</u>
Point Of Sale (solicitation or negotiation)	1% up to 25%
Sales Office Or Place Where Contracts Or Orders Are Accepted And/Or Processed	1% up to 15%
Warehouse Location.	1% up to 20%
The Service Providers' Principal Place of Business	1% up to 20%
Place Where Goods Are Delivered	1% up to 10%
Place Where Service Is Performed	1% up to 30%
Location of Billing Office.	1% up to 5%
Location of Collections Office	1% up to 5%

2. Definitions

a. Point Of Sale

The location where the sales were negotiated or solicited by the taxpayer, through his or her physical presence or the presence of an employee, representative, or agent.

b. Sales Office Or Place Where Contracts Or Orders Are Accepted And/Or Processed

The sales office(s) that served as the base of operations for sales activities, or if there is no such sales, the office(s) from which sales activities were internally directed or controlled, or where orders, contracts, etc. were received, accepted or approved at a level above the sales level.

c. Warehouse Location

This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the facility or facilities, internally controlled and operated, where the goods, wares, or merchandise were stored immediately prior to shipment or delivery.

d. Service Provider's Principal Place Of Business

This component applies only to service providers to whom the business license tax applies. It refers to the location(s) of the principal place of business of the service providers who generated the taxable receipts.

e. Place Where Goods Are Delivered

This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the place(s) where goods, wares, merchandise, or services were delivered if the ultimate delivery point is outside the City.

f. Place Where Services Are Performed

This component applies only to service providers to whom the business license tax applies. It refers to the location(s) at which the service providers actually perform their work.

g. Location of Billing Office

The place(s) where the taxpayer internally performed billing activity.

h. Location of Collections Office

The place(s) where the taxpayer internally performed its revenue collection activity.

D. The Safety Valve

Given the difficulty of designing an apportionment system that can apply evenly and fairly to all business types, the City Council directs the taxpayer to subdivision

ATTACHMENT- A

(c) of Section 6-1.436 of the Municipal Code, which allows taxpayers, with the consent of the Director, to employ an alternative apportionment method:

None of the business license taxes provided for by this title shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the Constitutions of the United States or the State of California. In any case where a business license tax is believed by a tax license holder or applicant for a license to place an undue burden upon interstate commerce, or be violative of such constitutional clauses, he may apply to the Tax Collector for an adjustment of the tax. Such application may be made before, at, or within six (6) months after payment of the prescribed business license tax. The applicant shall, by sworn statement and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Tax Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Tax Collector shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the business license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the business license tax has already been paid, shall order a refund of the amount over and above the business license tax so fixed. In fixing the business license tax to be charged, the Collector shall base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, and that the tax is imposed only on gross receipts resulting from business done with the City, or reasonably deemed to have been conducted in the City.

1. The Apportionment Questionnaire

Concurrent with each tax payment, an apportioning taxpayer must submit a document substantially in the form of BL-2 Form, the Apportionment Worksheet, and all supporting documents necessary to illustrate their apportionment calculations.

E. Applicability

These rules will apply to all future payments under the City's business license tax, as well as all claims for refund of taxes already paid, including claims that are pending on the date these rules are adopted, if one basis for the claim is the City's application of the tax to receipts arising from transactions that occur, in whole or in part, outside the City.

BUSINESS LICENSE APPORTIONMENT WORKSHEET – BL-2

A taxpayer may reduce total receipts from the operation of business or from work performed in the City by a percentage that represents activities that occur outside the city. If you believe this applies to your business please complete this BLAW-03 Apportionment worksheet.

Business Name: _____ Account Number: _____

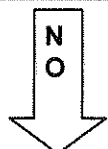
Calculate total gross receipts.
Total Gross Receipts = _____



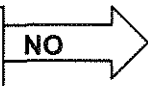
Were all sales, services, deliveries, warehousing, billing, and collection done within the City limits of Modesto?



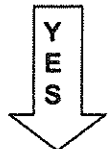
If yes, Apportionment does not apply. Stop here and complete form BL-1 (Declaration of Gross Receipts)
PAY TAX ON TOTAL GROSS RECEIPTS



Do your records support the existence of operations outside the City of Modesto?



Business records must support apportionment declaration. If they do not, Stop here and complete form BL-1 (Declaration of Gross Receipts)
PAY TAX ON TOTAL GROSS RECEIPTS



Business Eligible for Apportionment - Complete the balance of this worksheet

#1 – Point of Sale: What percentage, if any, of receipts were derived from transactions solicited or negotiated outside of Modesto?
(Point of sale can be up to 25% of value of receipts.) _____ %
Calculation _____ % = _____ /100 x .25 = _____ % transfer to box at right.
Example: (50% Modesto; 50% other = 50/100 x .25= .125 [12.5%])



#2 – Location of Responsible Sales Office: What percentage, if any, of receipts were derived from transactions where the responsible sales office was outside of Modesto?
(Location of responsible sales office can be up to 15% of value of receipts.) _____ %
Calculation _____ % = _____ /100 x .15 = _____ % transfer to box at right.
Example: (90% Modesto; 10% other = 10/100 x .15 = .015 [1.5%])



#3 – Warehouse Location: What percentage, if any, of receipts are derived from transactions where goods sold are stored in a facility outside of Modesto?
(Warehouse location can be up to 20% of value of receipts.) _____ %
*Note: If you are providing a service the answer is "0".
Calculation _____ % = _____ /100 x .20 = _____ % transfer to box at right.
Example: (67% Modesto; 33% Other = 33/100 x .20 = .066 [6.6%])



#4 – Service Providers Principal Place of Business: What percentage, if any, of receipts are derived from transactions in which the service providers who actually worked on the transaction maintained their principal place of business outside of Modesto?

(Service providers principal place of business can be up to 20% of the value of receipts.) _____%

*Note: If you are a retail business the answer is "0".

Calculation _____ % = _____ /100 x .20 = _____ % transfer to box at right.

Example: (75% Modesto; 25% other = 25/100 x .20 = .05 [5%])



#5 – Place Where Goods Were Delivered: What percentage, if any, of receipts are derived from transactions for the sale of goods for which delivery took place outside of Modesto?

(Place where goods were delivered can be up to 10% of the value of receipts.) _____%

*Note: If you are providing a service the answers is "0".

Calculation _____ % = _____ /100 x .10 = _____ % transfer to box at right.

Example: (67% Modesto; 33% Other = 33/100 x .10 = .033 [3.3%])



#6 – Place Where Service Was Performed: What percentage, if any, of receipts are derived from transactions in which the principal service providers worked outside of Modesto?

(Place where service was performed can be up to 30% of value of transaction.) _____%

* Note: If you are a retail business the answer if "0".

Calculation _____ % = _____ /100 x .30 = _____ % transfer to box at right.

Example: (50% Modesto; 50% Other = 50/100 x .30 = .15 [15%])



#7 – Location of Billing Office: What percentage, if any, of receipts are derived from transactions in which billing responsibilities were assigned to personnel based outside of Modesto?

(Location of billing office can be up to 5% of the value of receipts.) _____%

Calculation _____ % = _____ /100 x .05 = _____ % transfer to box at right.

Example: (0% Modesto; 100% other = 100/100 x .05 = .05 [5%])



#8 – Location of Collection Office: What percentage, if any, of receipts are derived from transactions in which collection responsibilities were assigned to company personnel based outside Modesto?

(Location of collection office can be up to 5% of the value of receipts.) _____%

Calculation _____ % = _____ /100 x .5 = _____ % transfer to box at right.

Example: (20% Modesto; 80% other = 80/100 x .05 = .04 [4%])



Figure Mill Tax as Apportioned

Total % _____ (A)
Add all boxes

Total gross receipts _____ x _____ % (from line [A] above) = \$ _____
Apportionment adjustment. (Transfer to line 7 on section II of Gross Receipts Form [BL-1])



**Apportionmen
Adjustment**

DECLARATION OF GROSS RECEIPTS



CITY of MODESTO

Location:

Account #:

Owner's Name:

Period Ending:

Last Day to Pay:

TAX FORMS MUST BE FILED EVERY PERIOD, EVEN IF THE GROSS RECEIPTS ARE ZERO. IF THIS IS THE CASE THEN ENTER -0-, SIGN THE FORM AND RETURN

Worksheet & Instructions for completing this form

Your license mill tax is now due and will become delinquent the day after the "Last Day to Pay". Please be aware that a 5% per month penalty will be added to your account for late payment up to a maximum of 25%. Please complete both sides of this form and return the bottom portion with your payment; keep the top portion of this form for your records.

Section I

Step 1 - CALCULATION OF TAXABLE GROSS:

Line A - GROSS RECEIPTS = Enter the total amount of receipts of cash, credits or property arising from conducting business
Enter here and on Line A below \$

Line B - ADJUSTMENTS = Enter the total of allowable adjustments
Enter here and on Line B below \$
(see worksheet on reverse for calculation of allowable adjustments)

Line C - TAXABLE GROSS = Subtract Line B from Line A (Enter here and on Line C below) \$

STEP 2 - CALCULATION OF TOTAL TAX DUE:

Line D - CALCULATION OF TAX = Multiply TAXABLE GROSS (Line C) X the tax rate \$

RIOR CHARGES AND CREDITS (See below) \$

Line M - TOTAL TAX DUE = Add Lines D thru L (Enter here and on Line M below) \$

Retain Top Section For Your Records

City of Modesto P.O. Box 3442 Modesto, CA 95353	Account Number		CALCULATION OF TAX		
	Period Ending	Last Day to Pay	D)		
DECLARATION OF GROSS RECEIPTS			E)		
			F)		
	Final Report: If you no longer do business in Modesto, check here. Date Business Closed	GROSS RECEIPTS \$		G)	
	ADJUSTMENTS \$		H)		
	TAXABLE GROSS \$		I)		
I declare under penalty of perjury that to my knowledge all information contained in this declaration is true and correct.			J)		
SIGNATURE			K)		
TITLE			L)		
			TOTAL TAX DUE		

Section II

ALLOWABLE ADJUSTMENTS (Complete both top and bottom portions of this sheet)

- 1) Cash discounts \$ _____
- 2) Value of trade ins \$ _____
- 3) Sales tax collected for payment to the State \$ _____
- 4) Value of returned merchandise \$ _____
- 5)*Trustees' collections for others \$ _____
- 6)**Amounts paid by a General Contractor to a licensed Sub-Contractor \$ _____
- 7)***Amount of apportionment to other taxing jurisdictions (from apportionment worksheet)..... \$ _____
- TOTAL ADJUSTMENTS (Enter here, Line B on reverse and Line B on return stub) \$ _____

*These adjustments require an explanation

**This adjustment must have a list showing name, address, City of Modesto business license # and amount paid to each Sub-Contractor

***This adjustment requires copy of other jurisdictions current license

Explanation: _____

Retain This Section For Your Records.

ALLOWABLE ADJUSTMENTS

- | | | | |
|--------------------------------------|----------|--|----------|
| 1) Cash Discounts | \$ _____ | 6)**Amounts paid by General Contractor | |
| 2) Value of trade ins | \$ _____ | to a licensed Sub-Contractor | \$ _____ |
| 3) Sales tax collected for the State | \$ _____ | 7)***Amount apportioned to other tax | |
| 4) Value of returned merchandise | \$ _____ | jurisdictions | \$ _____ |
| 5)*Trustees' collections for others | \$ _____ | TOTAL ADJUSTMENTS | \$ _____ |

Explanation of Adjustments

City of Modesto
P.O. Box 3442
Modesto, CA 95353-3442

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-502**

**A RESOLUTION RESCINDING RESOLUTION 2003-305 AND AUTHORIZING
THE PURCHASING SUPERVISOR TO ISSUE A PURCHASE ORDER TO
MISCO OF PLEASANTON, CA. FOR ONE JWC ENVIRONMENTAL SCREEN
WASHER COMPACTOR FOR A TOTAL COST OF \$80,374.68**

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) is requesting the purchase of a JWC Environmental screen washer compactor, and

WHEREAS, a JWC Environmental screen washer compactor is a machine used to wash and compact all of the waste that is collected from the primary WQC plant influent bar screens in preparation for landfill, and

WHEREAS, this machine greatly reduces the volume of waste by approximately 60% by washing organic matter out of the trash putting it back into the treatment process, and

WHEREAS, by using a screen washer compactor in our wastewater process, it will greatly reduce landfill disposal costs, and

WHEREAS, this process also benefits the citizens of Modesto by reducing odors from the WQC plant as well as reducing disposal costs, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution 2003-305 is hereby resented.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to MISCO of Pleasanton, Ca. in the amount of \$80,374.68.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-503**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BID FOR SIX (6) UTILITY TRUCKS AND ONE (1)
BACKHOE TRAILER FOR A TOTAL ANTICIPATED COST OF \$247,000.00**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of six (6) utility trucks and one (1) backhoe trailer, and

WHEREAS, the six utility trucks consist of one (1), ¾ ton extended cab truck with utility body; one (1), ¾ ton extended cab truck; one (1) 21,000 Goss Vehicle Weight (GVW) cab and chassis; two (2), ¾ ton trucks with utility body; one (1) 15,000 Gross Vehicle Weight (GVW) truck with utility body; and one (1), backhoe trailer, and

WHEREAS, the ¾ ton extended pickup, the ¾ ton extended cab truck with utility body, and the 21,000 GVW cab and chassis are additional trucks for the Water Division, and

WHEREAS, these trucks will be used by the heavy construction crews doing installation and major line constructions, and

WHEREAS, these trucks will also be used by pump mechanics and have been added to the water division, and

WHEREAS, replacement trucks are replacing trucks that have met their life expectancy and are in need of replacement for maintenance and reliability reasons, and

WHEREAS, one ¾ ton truck with utility body is a replacement for an existing truck in the Community Forestry Division, and

WHEREAS, this truck is a replacement for a truck with has met its life expectancy and is in need of replacement of maintenance and reliability reasons, and

WHEREAS, the 15,000 GVW truck with utility body is an additional unit for Transit Division and will be used for maintenance of bus shelters, and

WHEREAS, the trailer-backhoe will be used by the storm water maintenance crews, and

WHEREAS, the new basins are larger and require a higher level of maintenance, and

WHEREAS, the Community Facilities District (CFD) funds are being made available for maintenance on the storm water system, and

WHEREAS, the combined estimated total cost of this purchase is \$247,000.00, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, by soliciting competitive bids the City will achieve the best value for the six (6) utility trucks and one (1) backhoe trailer and meet the City's requirements for formal bidding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for six (6) utility trucks and one (1) backhoe trailer is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for six (6) utility trucks and one (1) backhoe trailer to be opened in 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 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman was upon roll call carried and the resolution adopted by the following vote:


AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-504**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO
ALTEC INDUSTRIES INC. OF DIXON, CA. FOR ONE (1) CURRENT YEAR
FORD SUPER DUTY F550 AERIAL TRUCK, WITH UTILITY BODY AND
AERIAL MAN LIFT FOR A TOTAL APPROXIMATE COST OF \$75,644.61**

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a Ford Super Duty F550 aerial truck, with utility body and aerial man lift, and

WHEREAS, this new truck will be used in the repair of streetlights and traffic signals, and

WHEREAS, the Fleet Services Division has identified this vehicle as a critical need in the performance of its work, and

WHEREAS, Resolution 2003-185 authorized the solicitation of bids for one (1) current model year Ford Super Duty F550 aerial truck, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, the Purchasing Division solicited formal bids on Request for Bid (RFB) 0203-27, and

WHEREAS, out of eleven vendors solicited, two (2) responded to the RFB, and

WHEREAS, Altec Industries Inc. of Dixon, Ca. is the lowest responsive and responsible bidder with an a total approximate cost of \$75,644.61.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for one (1) current model year Ford Super Duty F550 aerial truck to Altec Industries Inc. of Dixon, Ca. for a total approximate cost of \$75,644.61.

BE IT FUTHER RESOLVED that the Purchasing Supervisor is authorized to issue a purchase order to Altec Industries Inc. in the approximate amount of \$75,644.61.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

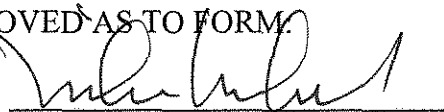
ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM.

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-505**

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR SEVEN (7) UTILITY VEHICLES TO THE FOLLOWING VENDORS: PACIFIC UTILITES OF SACRAMENTO, CA. IN THE APPROXIMATE AMOUNT OF \$548,866.64; MUNICIPAL MAINTENANCE EQUIPMENT OF SACRAMENTO, CA. IN THE APPROXIMATE AMOUNT OF \$143,075.04; AND JACK HUBBARD SALES OF MODESTO, CA. IN THE APPROXIMATE AMOUNT OF \$61,429.24. THE TOTAL PURCHASE APPROXIMATE AMOUNT FOR SEVEN (7) UTILITY VEHICLES IS \$753,370.92.

WHEREAS, the Operations and Maintenance Department-Fleet Services had requested the purchase of six (6) utility vehicles, with one (1) additional truck with sewer rodder body, and

WHEREAS, Resolution 2003-233 authorized the solicitation of bids for six (6) utility vehicles, and `

WHEREAS, forty-three vendor were solicited for Request for Bid (RFB) 0203-33, ten (10) chose to respond to the RFB.

WHEREAS, the seven utility vehicles consist of three (3) trucks, 33,000 GVW w/crane & flatbed; two (2) service truck with sewer rodder body; one (1) service truck with utility body and crane; and one (1) truck with 6/7 yard dump body, and

WHEREAS, the three (3) new flatbed crane trucks will be utilized by the Water and Waste Water Collections Divisions, and

WHEREAS, reliable, properly equipped crane trucks are needed to handle the heavy work on the water construction crews, and

WHEREAS, Municipal Maintenance of Sacramento, Ca. is the lowest responsive and responsible bidder for two (2) tucks with sewer rodder body for a total approximate cost of \$143,075.04, and

WHEREAS, Pacific Utility of Sacramento, Ca. is the lowest responsive and responsible bidder for three (3) crane trucks w/crane & flatbed truck and one service truck with utility body and crane for a total approximate cost of \$548,866.64, and

WHEREAS, Jack Hubbard Sales of Modesto, Ca. is the lowest responsive and responsible bidder for one (1) cab & chassis truck with 6-7 yard dump body for a total approximate cost of \$61,429.24, and

WHEREAS, the combined estimated total approximate cost for seven (7) utility vehicles is \$753,370.92, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby award bid for seven (7) utility vehicles to the following vendors: Pacific Utilities of Sacramento, Ca. in the approximate amount of \$548,866.64; Municipal Maintenance Equipment of Sacramento, Ca. in the approximate amount of \$143,075.04; and Jack Hubbard Sales of Modesto, Ca. in the approximate amount of \$61,429.24. The total purchase approximate amount for the seven (7) utility vehicles is \$753,370.92.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for seven (7) utility vehicles.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-506**

**A RESOLUTION AUTHORIZING THE PURCHASE OF TWO PIERCE
QUANTUM FIRE ENGINES FROM GOLDEN STATE FIRE APPARATUS, FOR
A TOTAL COST OF \$686,866.06 AND APPROVING THE USE OF THE CITY
OF BERKELEY'S CONTRACT FOR THIS PURCHASE.**

WHEREAS, the Modesto Fire Department uses fourteen engine companies and two truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of eleven engine companies and two truck companies, and

WHEREAS three reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, an engine company's useful lifespan is projected at fifteen years in front line service and five in reserve status, and

WHEREAS, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Finance Department and Fire Department representatives worked together through the bid process to award of contract, and

WHEREAS, Pierce Manufacturing was declared low bidder and awarded the contract, and

WHEREAS, Modesto Fire Department received its first Pierce fire engine in 1989 and a second in 1990, and

WHEREAS, since that time, we have purchased eight (8) additional engines and two (2) trucks from Pierce, and

WHEREAS, in July 2000, the City of Berkeley completed a thorough bid process for fire apparatus, and

WHEREAS, Golden State Apparatus (Pierce Manufacturing) was the successful bidder in the bid process and awarded a contract by the City of Berkeley, and

WHEREAS, Pierce has been successful in forty-two competitive bid processes within the State of California during the last two years, and

WHEREAS, the City of Berkeley's bid specifications closely resemble the ones specified by the Fire Department's apparatus committee, and

WHEREAS, pricing provided to the City will be effective through October 1, 2003, and

WHEREAS, after October 1, 2003 Pierce Manufacturing is anticipating a three-percent increase in pricing, and

WHEREAS, pricing provided to the City using the City of Berkeley's contract represents a savings of approximately, \$5,273.73 per engine on the price paid for the apparatus purchased in August 2002, and

WHEREAS, the cost savings represents a two-engine order, and engineering cost savings, and

WHEREAS, the price also represents a roll back of the 3% increase in between 2002/2003, for an additional savings of \$20,605.00, and

WHEREAS, the total cost of the engines is \$686,866.06,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of two Pierce Quantum fire engines from Golden State Fire Apparatus at a cost of \$686,866.06.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the use of the City of Berkeley's contract for Pierce fire engines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-507**

**A RESOLUTION AUTHORIZING THE DISPOSAL OF A 1977 VAN PELT
ENGINE, EITHER BY PUBLIC AUCTION, PRIVATE SALE, OR TRADE-IN.**

WHEREAS, the City purchased a new engine from Pierce Manufacturing in 1996, and

WHEREAS, at that time the existing 1977 Van Pelt engine was placed into reserve status to be utilized when a front line apparatus is out-of-service for repairs and/or when additional apparatus is needed to maintain our delivery system, and

WHEREAS, the 1977 Van Pelt engine has exceeded its life expectancy and is being replaced by a 1989 Pierce engine on reserve status,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the disposal of the 1977 Van Pelt engine, either by public auction, private sale, or trade-in 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 September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

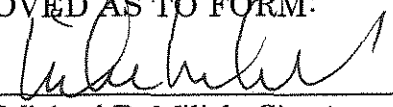
ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-508**

A RESOLUTION APPROVING THE APPLICATION FOR \$300,000 TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM.

WHEREAS, the California State Department of Housing and Community Development (hereinafter is referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the CalHome program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in Chapter 6 (commencing with Section 59650) of Part 2 of Division 31 of the Health and Safety Code (the "statute"), and

WHEREAS, pursuant to the statute, HCD is authorizing to approve funding allocations utilizing monies made available by the State Legislature to the CalHome program subject to the terms and conditions of the statute and the CalHome Program Regulations adopted by HCD on July 15, 2003, and

WHEREAS, the City of Modesto, Parks, Recreation and Neighborhood Department wishes to submit an application to obtain from HCD an allocation of CalHome funds in the amount of \$300,000, and

WHEREAS, said adopted procedures established by HCD require the applicant to certify by resolution the approval of applications and the availability of local matching funds prior to submission of said application to the state,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the submission of an application to HCD to participate in the CalHome program in response to the NOFA issued on July 16, 2003, which will request a funding allocation for the First Time Home Buyers Down Payment Assistance Program, in the amount of \$300,000 for the City of Modesto, and

2. Certifies that said agency has matching funds from the following source: HOME Fund 1170, and can finance 100 percent of the project, half of which will be reimbursed; and
3. If the application is approved, the City of Modesto, Parks, Recreation and Neighborhood Department hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program regulations cited above, and
4. It also may execute any and all other instruments necessary or required by HCD for participation in the CalHome Program, and
5. Authorizes and appoints the City Manager as agent of the City to submit and execute the application, the Standard Agreement, and all other documents, required by HCD for participation in the CalHome Program, and any amendments thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-509**

**A RESOLUTION AUTHORIZING STAFF TO DE-COMMISSION THE
MODESTO COMMUNITY SERVICE CENTER AND TO SECURE THE
FACILITY AND TO DEMOLISH THE BEARD BROOK T-SHELTER.**

WHEREAS, as part of the adopted budget reduction strategies for FY 03-04, the City Council accepted staff's recommendation to close the Modesto Community Service Center located at 600 E. Morris and to remove the T-Shelter located in Beard Brook Park, and

WHEREAS, staff is recommending to de-commission the Modesto Community Service Center and secure the facility; remove the outside dumpster, the sign in front of building, kitchen appliances, and interior telephone; secure the hot water heater; secure the gas supply to the building, to be handled by PG&E; install motion detectors/dusk to dawn lighting; remove or prune all shrubs at the base of the building; and maintain utilities for the preservation of historical artifacts, and

WHEREAS, staff is recommending to demolish the Beard Brook T-Shelter and landscape the site to blend in with the surroundings, and

WHEREAS, the Safety and Communities Committee met on September 3, 2003, and supported the recommended actions to de-commission the Modesto Community Service Center and to demolish the Beard Brook T-Shelter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to de-commission the Modesto Community Service Center and to secure the facility, and to demolish the Beard Brook T-Shelter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-510**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-04 OPERATING BUDGET TO APPROPRIATE \$25,750 FROM THE GENERAL FUND RESERVE, 0100-800-8000-8003, TO FACILITIES, BUILDING RENTAL, 0100-380-3810-0235 (\$15,750) AND 0100-380-3810-0255 (\$10,000).

WHEREAS, as part of the adopted budget reduction strategies for FY 03-04, the City Council accepted staff's recommendation to close the Modesto Community Service Center located at 600 E. Morris and to remove the T-Shelter located in Beard Brook Park, and

WHEREAS, staff is recommending to de-commission the Modesto Community Service Center at a cost of \$12,050, and

WHEREAS, staff is recommending to demolish the Beard Brook T-Shelter and landscape the site to blend in with the surroundings at a cost of \$13,700, and

WHEREAS, the Safety and Communities Committee met on September 3, 2003, and supported the recommended actions to de-commission the Modesto Community Service Center and to demolish the Beard Brook T-Shelter, and

WHEREAS. Funds are not budgeted for these actions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2003-04 budget to appropriate \$25,750 from the General Fund Reserve, 0100-800-8000-8003 to Facilities, Building Rental accounts 0100-380-3810-0235 (\$15,750) and 0100-380-3810-0255 (\$10,000) for City staff labor.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-511**

**A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2003
AND APPROVING XCLAMATION FEST 2004 HOSTED BY CHRIS RICCI
PRESENTS, INC. AND JCD CONCEPTS 2000, INC. IN DOWNTOWN
MODESTO ON SATURDAY JULY 17, 2004.**

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 & Communities Committee met on March 31, 2003 and supported approval of the Xclamation Fest 2003 for July 19, 2003, and

WHEREAS, on April 22, 2003, by Resolution No. 2003-201, the City Council approved Xclamation Fest 2003 hosted by Chris Ricci Presents, Inc. and JCD Concepts 2000, Inc. in downtown Modesto on Saturday, July 19, 2003, and

WHEREAS, the fourth annual Xclamation Fest was held on Saturday, July 19, 2003, 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 2004 annual Xclamation Fest is Saturday, July 17, 2004, 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, the Safety & Communities Committee reviewed this item at its September 3, 2003 meeting and supported approval of staff's report of Xclamation Fest 2003 and accepted the recommendation to support Xclamation Fest 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2003 held in Downtown Modesto on Saturday, July 19, 2003.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2004 to be held in Downtown Modesto on Saturday, July 17, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-512**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/04 BUDGET TO
TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO THE
GENERAL FUND, POLICE SUPPORT DIVISION, FOR A DONATION TO THE
COMMUNITY ACTION COALITION**

WHEREAS, the Community Action Coalition is a grass roots organization of government and community leaders, law enforcement, business professionals and members of the faith community who are committed to the goal of improving the quality of life in Stanislaus County, and

WHEREAS, the Coalition desires to sponsor the "*Cutting Edge Training*," a comprehensive crime and drug prevention strategic planning conference to be attended by the Community Action Coalition members on October 21 and 22, 2003. The conference will provide the planning, implementation and evaluation of a systems-wide approach to:

- Quality-of-life Improvements
- Improved Public Safety
- Helping Families Succeed
- Employing all Elements of the community to Secure Peace and Eliminate Disorder
- Building Partnerships and Consensus
- Solving Local Problems as a Team
- Keeping Children Safe, Drug Free, and in School
- Drug and Crime Prevention, and

WHEREAS, the need for this conference and its potential for assuring our county continues to move in the direction its citizens desire and deserve is very important, which is why we want to support the efforts of the Community Action Coalition, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for the purpose of making a donation to this important training for our community, and

WHEREAS, the Safety and Communities Committee unanimously recommended this action at its meeting of June 30, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/04 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 0100-190-1921-1202 \$5,000 Police Support Division

Revenue:

From: 0100-190-1921-7202 \$5,000 Seized Forfeitures

To make a donation of \$5,000 for the "Cutting Edge Training."

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 September, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

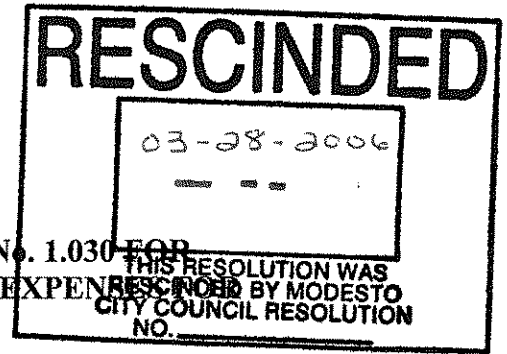
ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION No. 2003-513



A RESOLUTION ADOPTING CITY COUNCIL POLICY No. 1.030 FOR REIMBURSEMENT OF CONFERENCE AND BUSINESS EXPENSES FOR MEMBERS OF THE CITY COUNCIL.

2006-183

WHEREAS, on October 16, 1991, an administrative directive was signed by the City Manager which outlined the policy for reimbursement of conference and business expenses for Elected and Appointed City officials, and

WHEREAS, the existing policy has not been revised or updated since October 16, 1991, and

WHEREAS, in March 2002, the City Council directed the City Manager to review the existing travel policy for Elected Officials and to make recommendations to the City Council for any necessary changes or additions, and

WHEREAS, on August 6, 2003, the Audit Committee reviewed the revised policy and made recommendations and changes to the proposed policy, and

WHEREAS, on September 8, 2003, the Audit Committee reviewed and approved the revised City Council Policy No. 1.030, attached hereto, which contains the following changes:

- 1) The inclusion of usage of the credit card for travel related purposes.
- 2) Updating portions of the policy relating to hotel accommodations which include:
 - a) Removing the requirement that councilmembers traveling to the same conference share a room.
 - b) Authorizing early departure from Modesto if available air transportation to a conference is limited and the conference starts at an early hour.

- c) Establishes the conference hotel headquarters rate as the maximum rate allowed.
- 3) Removal of allowance for reimbursement of alcoholic beverages.
- 4) Updating reimbursement policy for mileage and airfare.
- 5) Inclusion of a provision allowing city staff to make travel arrangements for the elected official's spouse/companion insuring that the same rates/arrangements are secured.
- 6) Inclusion of a provision prohibiting hosting of dinners by elected officials.
- 7) Appending the applicable sections of the MMC as well as the policy and procedure manual for use of City credit cards.
- 8) Inclusion of a provision allowing ground travel when it is the most cost effective means of travel.
- 9) Clarifying the appropriate approving authority for the Mayor and City Council.
- 10) Requiring reconciliation between the travel claim form and the bank credit card statement prior to submission of the claim form for reimbursement.
- 11) Adding an audit requirement by the City Auditor and a post audit public disclosure requirement.

WHEREAS, other issues raised were:

- 1) Apportioning the City Council travel budget amongst members of the City Council as follows: one-third for the Mayor, and two-thirds for the remaining members of the Council.

- 2) Require a quarterly report to the Audit Committee of travel related and credit card expenses for the City Council, Charter Officers, Deputy City Managers and Department Directors.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby approves and adopts City Council Policy No. 1.030, Reimbursement of Conference and Business Expenses for Members of the City Council 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 23rd day of September, 2003, by Councilmember Keating, who moved its adoption, which motion was duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-514**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
APPROVING REVISED TERMS AND CONDITIONS FOR THE SALE OF REAL
PROPERTY FOR THE PARCELS LOCATED AT THE SOUTHWEST CORNER
OF 10TH STREET AND H STREET AND AUTHORIZING THE SALE OF SAID
PARCELS TO THE MODESTO REDEVELOPMENT AGENCY.**

WHEREAS, on October 10, 2000, the City Council of the City of Modesto (the “Council”) approved the sale of that certain real property located on the southwest corner of 10th and H Streets in the City of Modesto which parcels are more particularly described as Assessor’s Parcel Numbers: 106-42-01; 106-42-02; 106-42-03; 106-42-04 (A map of said parcels is attached hereto as “**Exhibit A**” and made a part hereof by this reference), and

WHEREAS, the City authorized the sale of said parcels to the Modesto Redevelopment Agency (the “Agency”) which Agency will in turn sell said parcels to Valley Tower, LLC, a California limited liability company, pursuant to an approved Disposition and Development Agreement (the “DDA”) for the purpose of constructing a multi-use project consisting of office space, retail space and a parking garage, and

WHEREAS, the Agency on June 24, 2003, approved a First Amendment to said DDA (the “First Amendment”), which First Amendment included revisions to the terms and conditions of said DDA, and

WHEREAS, the Developer has been working with potential tenants and lenders to ensure a reasonable level of occupancy in the Office Project prior to starting construction and to obtain mortgage and equity financing for said Office Project, and

WHEREAS, in order to obtain mortgage and equity financing, the Developer has requested that certain terms and conditions of the DDA and the First Amendment be revised, and

WHEREAS, in order to obtain the required mortgage and equity financing, the Developer has requested that the sale of said real property from the City to the Agency be completed on or before November 19, 2003.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby authorizes the sale of real property to the Modesto Redevelopment Agency with the close of escrow to be on or before November 19, 2003, which parcels are more particularly described as Assessor's Parcel Numbers: 106-42-01; 106-42-02; 106-42-03; 106-42-04.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that the City Manager is hereby authorized and directed to execute any and all documents related to and/or required by said real property sale.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, Clerk

(SEAL)

APPROVED AS TO FORM:

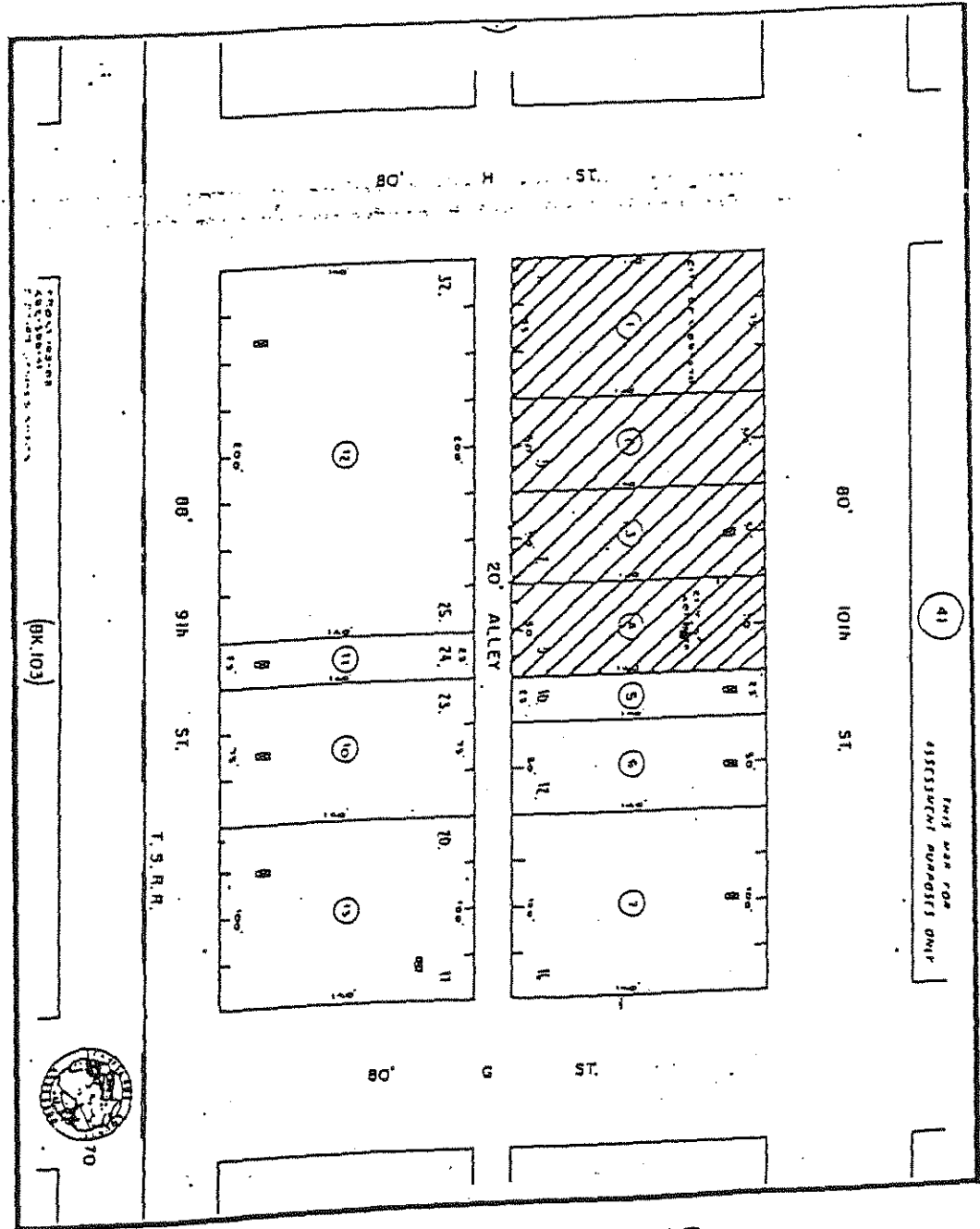
By 
MICHAEL D. MILICH, City Attorney

EXHIBIT A

ATTACHMENT NO. 1

Map of the Site

The City-owned property currently used for public parking, as shown below:



HINCHEY-BRAY - SITE MAP



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-515**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND
MASTER PLAN INCLUDED THEREIN FOR MADDUX YOUTH CENTER
ADDITION/REMODEL PROJECT**

WHEREAS, on August 14, 2001, City Council adopted Resolution No. 2001-425, awarding a contract to RRM Design Group, Inc. professional architectural services to prepare the design development and construction documents for the Maddux Youth Center Addition/Remodel project, and

WHEREAS, on February 2, 2002 and on March 25, 2003, the Council approved amendments to the contract to expand the scope of the project, and

WHEREAS, prior to adopting the Design Development Report, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, on February 3, 2003, the Safety and Communities Committee recommended approval of the Maddux Youth Center Addition/Remodel Design Development Report, and

WHEREAS, by an agenda report dated August 22, 2003, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Maddux Youth Center Addition/Remodel Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, on September 23, 2003, concurrent with this resolution, the Modesto City Council considered and made certain findings contained in Initial Study EA/PR&N 2003-02, which finds that the potential environmental effects of the project have been adequately addressed by the previously certified Modesto Urban Area General Plan

Master EIR (SCH No. 19999082041), and that the Maddux Youth Center Design Development Report dated August 20, 2003, is within the scope of the Modesto Urban Area General Plan and General Plan Master EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Maddux Youth Center Addition/Remodel Project Design Development Report is complete and adequate, and it hereby approves the Maddux Youth Center Addition/Remodel Project Design Development Report, and Master Plan included therein, a copy of which 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 23rd day of September, 2003, by Councilmember Jackman, 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:	Conrad, Fisher, Frohman, Jackman, Keating O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-516**

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS CONSISTENT WITH THE SCOPE OF THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH # 1999082041): MADDUX YOUTH CENTER ADDITION/REMODEL PROJECT DESIGN DEVELOPMENT REPORT AND MASTER PLAN INCLUDED THEREIN.

WHEREAS, on March 4, 2003, the Modesto City Council adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report (“MEIR”) (State Clearinghouse No. 1999082041) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act (“CEQA”) Guidelines, and

WHEREAS, the City is proposing to do an addition and remodel to the Maddux Youth Center (“Project”) including remodeling of the existing center and a 6,000 square foot building addition, with specific improvements to include: a 2,500 square foot building addition to include a multi-purpose room, computer classroom, kitchenette and restrooms; a 3,500 square foot building addition to include a boxing ring, training area, office and storage room; replacement of the existing roof and addition of new skylights; replacement of the existing mechanical air conditioning system; replacement of the interior doors and hardware and existing windows; abatement of asbestos flooring in the office, computer room and weight room and installation of new flooring; installation of new dropped acoustical ceiling and carpeting in the office and computer room; and addition of new cabinets and sink in the pool table room, and

WHEREAS, City staff prepared an Initial Study, Environmental Assessment No. PR&N 2003-02, which concluded that the proposed Project is within the scope of the Modesto Urban Area General Plan MEIR (SCH # 1999082041), and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to approve the Design Development Report and Master Plan contained therein and to adopt an Initial Study for the Maddux Youth Center Addition/Remodel Project, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on September 23, 2003, 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 Environmental Assessment No. EA/PR&N 2003-02 "City of Modesto Initial Study and Findings of Conformance with the Modesto Urban Area Master Environmental Impact Report; Proposed Maddux Youth Center Improvements, Located at 615 Sierra Drive, Modesto, California", for the proposed Project, and the Council hereby makes the following findings:

- A. That the proposed Project is within the scope of the General Plan and the General Plan Master EIR (SCH # 1999082041).
- B. No additional significant environmental effects will occur as a result of this Project that were not previously examined in the General Plan Master EIR.
- C. No new or additional mitigation measures or alternatives will be required as a result of this Project that were not previously considered in the General Plan Master EIR.
- D. All feasible mitigation measures or feasible alternatives set forth in the Master Environmental Impact Report which are appropriate to the Project have been incorporated into the Project.
- E. No new environmental document nor findings pursuant to Section 21081 are required for the Proposed Maddux Youth Center Improvements Project.
- F. This Initial Study provides substantial evidence to support findings "A, B, C, D and E" above.

A copy of said Environmental Assessment No. EA/PR&N 2003-02, entitled "City of Modesto Initial Study and Findings of Conformance with the Modesto Urban Area Master Environmental Impact Report; Proposed Maddux Youth Center Improvements, Located at 615 Sierra Drive, Modesto, California" 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 23rd day of September, 2003, by Councilmember Jackman, 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:	Conrad, Fisher, Frohman, Jackman, Keating O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

City of Modesto

**Initial Study and Findings of Conformance with the Modesto
Urban Area Master Environmental Impact Report**

**Proposed Maddux Youth Center Improvements
Located at 615 Sierra Drive
Modesto, California**

EA NO. PR&N 2003-02

Date: August 26, 2003

I. PURPOSE:

The Master Environmental Impact Report (MEIR) for the Modesto Urban Area General Plan provides the basis for environmental review of this proposed Maddux Youth Center Improvements Project, located at 615 Sierra Drive. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not examined in the General Plan Master EIR. And, pursuant to Section 21157.1 (c), this Initial Study provides the basis for the determination whether the project is within the scope of the project covered by the General Plan Master EIR.

II. PROJECT DESCRIPTION:

- A. Project Title:**
Maddux Youth Center Improvements
- B. Lead Agency Name and Address:**
City of Modesto, P.O. Box 642 Modesto, CA 95353
- C. Contact Person, address and phone number:**
Bob Ford, Project Coordinator, Parks, Recreation and Neighborhoods
Department, (209) 577-5437
- D. Project Location:**
615 Sierra Drive at "F" Street in Modesto, CA (see attached Exhibit "A")
- E. Project Sponsor, address and phone number:**
City of Modesto Parks, Recreation and Neighborhoods Department
P.O. Box 642, Modesto, CA 95353

F. Modesto General Plan Designation:

The existing Maddux Youth Center is on land designated as MU – Mixed Use on the adopted Land Use Diagram. (p. III-114, Urban Area General Plan).

G. Zoning:

Medium Density Residential (R-2)

H. Description of Proposed Project:

Improvements to the Maddux Youth Center include remodeling of the existing center and a 6,000 square foot building addition. Specific improvements are as follows:

1. A 2,500 square foot building addition to include a multi-purpose room, computer classroom, kitchenette and restrooms.
2. A 3,500 square foot building addition to include a boxing ring, training area, office and storage room.
3. Replacement of the existing roof and addition of new skylights.
4. Replacement of the existing mechanical air conditioning system.
5. Replacement of the interior doors and hardware, and existing windows.
6. Abatement of Asbestos flooring in the office, computer room and weight room and installation of new flooring.
7. Install new dropped acoustical ceiling and carpeting in the office and computer room.
8. Add new cabinets and sink in pool table room.

The project Master Plan, design and programming are described in detail within the "Design Development Report for the Maddux Youth Center Addition and Remodel," dated August 20, 2003. This project includes adoption of the Master Plan and Design Development Report, Construction Documents and construction of the improvements to the Maddux Youth Center. (See attached Master Plan, Exhibit "B")

I. Surrounding Land Uses:

North: Established City of Modesto neighborhood park and residential neighborhood.

South: Established single-family residential neighborhood

East: Established single-family residential neighborhood.

West: Established single-family residential neighborhood.

J. Other Public agencies whose approval is required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR:

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR. Compared to the Master EIR certified for the Modesto Urban Area General Plan, the proposal will not result in increased impacts to any of the following subject areas:

A. Traffic and Circulation

The proposed Maddux Youth Center improvements project proposes to remodel the existing building and would add 6,000 square feet of building space. The

expanded use of the Center and the resultant need for additional parking will be off-set by the striping of diagonal parking spaces along Sierra Drive, a change from the current parallel curb-parking arrangement. Sierra Drive is a collector street that has adequate width to accommodate the diagonal parking. Between 35 and 40 spaces would be created with this diagonal striping, which is more than double the current parking capacity along Sierra. The proposed improvements to the Center would result in no revisions to the adopted land use or land use designations, infrastructure, street access or transportation and circulation system in the General Plan. Thus, the proposed improvements to the Maddux Youth Center would result in no significant increase in demand for circulation facilities that are not anticipated by the traffic model that analyzed the General Plan. Therefore, the proposed improvements are consistent with the Traffic and Circulation needs section of the General Plan MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-33) are, therefore, still valid.

B. Degradation of Air Quality

Construction of the proposed Maddux Youth Center Improvements would result in no revisions to the existing land use or adopted General Plan land use designations, infrastructure, street access or transportation and circulation system. Thus, the proposed Maddux Youth Center Improvements would not result in a significant increase in generation of traffic that is not anticipated by the traffic model that analyzed the adopted General Plan. Therefore, the proposed Maddux Youth Center Improvements will not cause additional traffic-related impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The proposed Maddux Youth Center Improvements would result in only minor alterations to the existing building on the site and no changes to land use designations, infrastructure, traffic generation or traffic and circulation system contained in the General Plan. Any construction-related noise would be addressed by compliance to the City's noise ordinance. Because there would not be a significant increase in traffic generated, and roadway level of service would be consistent with the General Plan, the proposed Initiative will not cause an increase in the projected generation of traffic-related noise in the MEIR. Therefore, the project will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

Because construction of the proposed Maddux Youth Center Improvements would only affect an existing building that has been on-site for over 50 years, it does not effect conversion of productive agricultural lands within the adopted General Plan area. Therefore, the proposal is not an increased impact to loss of productive agricultural land as analyzed by the MEIR. 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-4-12) are still valid.

E. Increased Demand for Water Supplies
Construction of the proposed Maddux Youth Center Improvements is in an older urbanized part of the City and would not result in any change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus the project would not require additional water supplies beyond that identified for the General Plan in the Increased Demand for Water Supplies section of the MEIR. 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.

F. Increased Demand for Sanitary Sewer Services
Construction of the proposed Maddux Youth Center Improvements project consists of minor alterations to the existing building, with a 6,000 square foot building addition. The floor area will increase, but there would be no changes to gross acreage, land use, infrastructure or circulation system of the General Plan. There would be a less than significant increase in demand for sewer services but it 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.

G. Loss of Sensitive Wildlife and Plant Habitat
The proposed Maddux Youth Center Improvements project site is in an existing, older residential neighborhood in Modesto. The project does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, 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.

H. Disturbance of Archaeological and Historic Sites
This proposed Maddux Youth Center project will not disturb any archaeological sites that have been identified in the Disturbance of Archaeological of the MEIR.

According to Figure 8-1 of the Final MEIR of the Urban Area General Plan, the proposed project site is located within 100 feet of City of Modesto Preservation Landmark No. 4 – The Modesto Ash Tree. The City's Urban Area General Plan Archaeological or Historical policies AH-8 through AH-14 apply to this proposal. In addition, Chapter V, Section 8 of Final MEIR addresses potential disturbance of archaeological/ historical sites.

The Final MEIR identified potential mitigation measures listed on Table 8-1 (page V-8-19 and V-8-20), which may be applicable. Development adjacent to known Landmark sites could expose the Landmark Preservation Site to risks that may adversely affect this historically and unique feature. Therefore, the placement of the building addition at the east end of the existing facility will ensure that all construction activity keeps clear of the historic Modesto Ash Tree on the north side of the building.

The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the

MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Increased Demand for Storm Drainage

The proposed Maddux Youth Center Improvements project is in an established neighborhood, would not result in any change to impervious surfaces, the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, construction of the project 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.

J. Flooding and Water Quality

The proposed Maddux Youth Center Improvements project consists of a remodel and building addition to an existing building in an established neighborhood, and would not result in a change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not addressed in the MEIR. The project site is approximately 1 mile north of the designated flood plain area of the Tuolumne River. The Existing Conditions, Impacts analysis and the Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are, therefore, still valid.

K. Increased Demand for Parks and Open Space

The proposed Maddux Youth Center Improvements project is within an existing park within an established neighborhood, and would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, construction of project would not generate any new population that would increase demand for use of parks or open space facilities. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore still valid.

L. Increased Demand for Schools

The proposed Maddux Youth Center Improvements project will occur within an established neighborhood, does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Therefore, construction of the project would not generate any new population that would increase demand for use of 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.

M. Increased Demand for Police Services

The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, consists of minor alterations to an existing building and a building addition. The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, it would not result in a significant increase in service demand for the City of Modesto Police Department. 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.

N. Increased Demand for Fire Services

The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood. The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, and does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. 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.

P. Generation of Hazardous Materials

The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, and would not result in any change to the gross acreage, land use on site or land use designations, infrastructure or circulation system of the General Plan. The work consists of remodel work to the existing structure, with removal and abatement of some vinyl-asbestos flooring by a State-certified removal contractor. There will be no additional hazardous material generated beyond those identified in the MEIR. 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.

Q. Landslides and Seismic Activity

The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood. The project will remodel the existing structure and will add 6,000 square feet of floor space. The existing building will be evaluated for meeting existing seismic building codes, with all remodel and new construction to meet this code. The proposed project is on an existing park site, does not propose significant changes to 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.

R. Energy

The proposed Maddux Youth Center Improvements project will remodel and add floor space to an existing building. The project will not change 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.

IV. 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 Maddux Youth Center Improvements Project, including the following:

Traffic and Circulation Measures:

N/A

Air Quality Measures:

Policy VII-H.2[I] 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.

MEIR Table 2-6. Air Quality Measures to Reduce Construction Impacts

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 PM10 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.

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.

Noise Measures:

Modesto Noise Ordinance. 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.):

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 General Plan policies listed below into the project.

Policy VII-G.3[a] 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].

Agricultural Land Measures:

N/A

Water Supply Measures:

Engineering and Transportation Department staff request that calculations be submitted as part of project application including: water demand, including fire sprinkler requirements, if applicable, and fire flow test results to the Capital Planning Division of the Engineering and Transportation Department.

Policy V-C.2[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 V5-1 in the Final Master EIR for potential techniques to reduce potable water demand.

TABLE 5-1: TECHNIQUES FOR REDUCING POTABLE WATER DEMAND

- a. Install water conserving fixtures and appliances including shower heads, toilets, faucets, washing machines, and dishwashers.
- b. Install water conserving landscape materials and irrigation systems in all common landscape areas.

Note: These techniques are required by state law (California Code of Regulations Title 20, Sections 1601-1608). The City of Modesto has adopted these regulations and enforces them through the building permit process.

- c. The City shall implement a requirement for the installation of water meters on all new constructions.

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

Pursuant to Mitigation Measure AH-13 on page V-8-14 of the final Master EIR, the applicant shall submit proposed construction plans to the City's Operations and Maintenance Department, Urban Forestry Division to determine whether the Modesto Ash Tree may be adversely affected by the proposed project and the identification of appropriate mitigation measures on Table 8-1 that may be applied to avoid or reduce any potential adverse impacts.

Table 8-1. Procedures for Mitigating and Monitoring Impacts to Cultural Resources

a. Whenever possible, the city shall avoid disturbing or damaging archaeological resources. Preservation in place to maintain the relationship between the artifacts and the archaeological context is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:

1. Planning construction to avoid archaeological sites;
2. Incorporating sites within parks, greenspace, or other open space;
3. Covering the sites with a layer of chemically stable soil;
4. Deeding the site into a permanent conservation easement.

When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering the scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code sec. 7050.5; Guidelines sec. 15126.4[b]).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines sec. 15126.4[b]).

- b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
- c. The project sponsor shall identify a qualified archaeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archaeologist. The archaeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
- d. Reasonable time shall be allowed for the qualified archaeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
- e. If any find is determined to be significant by the qualified archaeologist, representatives of the construction contractor and the City, the qualified archaeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.
- f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.

Policy VII-F.2[e] 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.

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

Energy

N/A

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. No additional significant environmental effects will occur as a result of this project that were not previously examined in the General Plan Master EIR, because the MEIR assumed the development of the Maddux Youth Center, and the traffic generated by this proposal is less than was analyzed in the MEIR.
- B. No new additional mitigation measures or alternatives will be required as a result of this project that were not previously considered in the General Plan Master EIR, because the environmental effects of this project are less than were analyzed by the MEIR (SCH No. 1999082041) for the proposed Maddux Youth Center Improvements project.
- C. Construction of the proposed Maddux Youth Center Improvements project is within the scope of the project covered by the General Plan Master Environmental Impact Report.
- D. All feasible mitigation measures of feasible alternatives set forth in the Master Environmental Impact Report which are appropriate to the project have been incorporated into the project.

- E. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the Proposed Maddux Youth Center Improvements project.
- F. This Initial Study provides substantial evidence to support findings "A, B, C, D and E" above.

Signature: Bob Ford Date: 9-16-03
Bob Ford, Project Coordinator

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-517**

**A RESOLUTION APPOINTING TEN 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. Three Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Davis High School
Samantha Sheppard

Valley Business High School
Savanah Smith

Modesto Christian High School
Jessica Crites

SECTION 2. Seven 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
Lisa Daitoku

Johansen High School
Eve Meyer

Big Valley Grace High School
Megan Rangel

Modesto High School
Cailin Cupp

Central Catholic High School
Jennifer Cust

Modesto Christian School
Kim Meyer

Downey High School
Amy Sutherland

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 October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

BEYER HIGH

Principal: Chris Walker
Contact: Denise L'Heureux, (L'Roo) 576-4329
1717 Sylvan Avenue
Modesto, CA 95355
Ph 576-4311, fax 576-4352

Commissioners:

Daniel Thompson – Sr. (Appointed 2002)
Lisa Daitoku – Jr. (New Appointment)

BIG VALLEY GRACE HIGH SCHOOL

Principal:
Contact: Dan Park, Vice Principal (571-4362)
4040-D Tully Road
Modesto, CA 95350
Ph 577-1604, fax 569-0138

Commissioners:

Megan Rangel – Jr. (New Appointment)

CENTRAL CATHOLIC

President: Jim Pecchenino
Advisor: Kari Henderson x 118
Kathy Padula: 529-9278 x 115
200 So. Carpenter Road
P.O. Box 4876
Modesto, CA 95352
Ph 524-9611, fax 524-4913

Commissioners:

Joseph Speaker – Sr. (Appointed in 2002)
– Jr. (New Appointment)

DAVIS HIGH

Principal: Chuck Edmonds
Advisor: James Hooker
Contact: Rhonda
1200 W. Rumble Rd
Modesto, CA 95350
Ph 576-4500 fax 576-4028

Commissioners:

Samantha Sheppard – Sr. (New Appointment)
Jennifer Cust – Jr. (New Appointment)

DOWNEY HIGH

Principal: Tom Brunskill
Advisor: Christi Victorino (576-4220)
1000 Coffee Rd.
Modesto, CA 95355
Ph 576-4211, fax 576-4258

Commissioners:

Jerad Prasad – Sr. (Appointed 2002)
Amy Sutherland – Jr. (New Appointment)

JOHANSEN HIGH

Principal: Chris Flesuras
Peidi Callahan, Activity Director (576-4997)
641 Nordsman Drive
Modesto, CA 95350
Ph 576-4930, fax 576-4752

Commissioners:

Jesse Dashe – Sr. (Appointed 2002)
Eve Meyer – Jr. (New Appointment)

MODESTO HIGH

Mary Byers, Principal
Craig Orona, Administrative Ass't
1st & H Streets
Modesto, CA 95351
Ph 576-4401, fax 576-4434

Commissioners:

Okon Harris – Sr. (Appointed 2002)
Cailin Cupp – Jr. (New Appointment)

MODESTO CHRISTIAN

Principal: Cynthia Jewell
Advisor: Kathy Alvernaz
5755 Sisk Road
Modesto, CA 95356
Ph 529-5510, fax 545-0584

Commissioners:

Jessica Crites – Sr. (New Appointment)
Kim Meyer – Jr. (New Appointment)

VALLEY BUSINESS HIGH SCHOOL

Principal: Jeff Tilton, Director Of Charter Schools
Contact: Julie Swift, Instructor
108 Campus Way
Modesto, CA 95350
Ph 558-4415, fax 558-4453

Commissioners:

Savanah Smith – Sr. (New Appointment)

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -518**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT
FOR CONSULTANT SERVICES IN THE AMOUNT OF \$71,280 PER YEAR
WITH PATTON BOGGS, LLP, FOR A PERIOD OF TWO YEARS, TO
PERFORM FEDERAL LEGISLATIVE LOBBYING SERVICES AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City's interests at the federal level, and

WHEREAS, in May 22, 2001, the Modesto City Council adopted Resolution No. 2001-229, approving issuance of a Request for Qualifications (RFQ) for Federal Legislative Lobbying Services, and

WHEREAS, on May 23, 2001 a RFQ for Federal Legislative Lobbyists Services was issued and 17 responses were received, and

WHEREAS, the RFQ responses were reviewed and ranked according to criteria established in the RFQ, and

WHEREAS, personal interviews were conducted with the top eight respondents, and

WHEREAS, on August 21, 2001, the Economic Development and Intergovernmental Relations Committee conducted interviews with Patton Boggs and Van Scoyoc and made a recommendation that the full Council approve sole source negotiations with Patton Boggs, and

WHEREAS, on August 14, 2001, the Modesto City Council adopted Resolution No. 2001-424 authorizing the City Manager to conduct sole source negotiations with Patton Boggs, LLP, to perform Federal Legislative Lobbyist Services, and

WHEREAS, said sole source negotiations have been completed with Patton Boggs, LLP, and

WHEREAS, On September 22, 2003, the Finance Committee recommended a second amendment to Agreement for Consultant Services in the amount of \$71,280 per year with Patton Boggs, LLP, for a period of two years be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to Agreement for Consultant Services in the amount of \$71,280 per year with Patton Boggs, LLP, for a period of two years.

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 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-520**

**A RESOLUTION ACCEPTING THE WORK BY REMEDIATION
CONSTRUCTORS, INC., FOR THE "HILLSIDE DRIVE EXTENSION"
PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A
NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS
DUE TOTALING \$299,896.10 PER THE CONTRACT**

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Hillside Drive Extension", has been completed by Remediation Constructors, Inc., in accordance with the contract agreement dated January 7, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Hillside Drive Extension" project be accepted from said contractor, Remediation Constructors, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$299,896.10 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-521**

A RESOLUTION AWARDED A \$199,680 CONTRACT TO STANTEC CONSULTING, INC., FOR ENGINEERING DESIGN SERVICES FOR THE PROJECTS TITLED "ROSE / CELESTE LIFT STATION", AND THE "SCENIC LIFT STATION"

WHEREAS, following a Request for Qualifications which was sent to 84 engineering firms, 11 qualification statements for the design of the Rose/Celeste Lift Station and the Scenic Lift Station were submitted to the City, and

WHEREAS, from the 11 qualification statements received, 2 of the most qualified firms were short-listed to receive a Request for Proposal and interview, and

WHEREAS, the proposals and interviews for the engineering design services for said project were rated by the selection team, and Stantec Consulting, Inc., was rated highest, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Stantec Consulting, Inc., be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Stantec Consulting, Inc., in an amount not to exceed \$199,680,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the projects titled "Rose/Celeste Lift Station", and the "Scenic Lift Station," to Stantec Consulting, Inc., in an amount not to exceed \$199,680.

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 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-522**

A RESOLUTION APPROVING A CONTRACT AMENDMENT WITH THOMPSON-HYSELL ENGINEERS, A DIVISION OF THE KEITH COMPANIES, INC., A CALIFORNIA CORPORATION, IN THE AMOUNT OF \$22,041.85 FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES ALL TO PROVIDE ENGINEERING DESIGN SERVICES FOR THE PELANDALE INTERSECTION IMPROVEMENTS AND THE PRESCOTT/SNYDER TRAFFIC SIGNAL PROJECTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on January 14, 2003, the City Council approved a professional services agreement with Thompson-Hysell Engineers, a division of The Keith Companies, Inc., a California Corporation in the amount of \$179,380.00 to develop engineering plans for the design of the Pelandale Intersection Improvements and the Prescott/Snyder Traffic Signal, and

WHEREAS, upon proceeding with their original tasks, Thompson-Hysell Engineers was asked to provide additional services to resolve right-of-way issues, to prepare ultimate design and improvement plans, and to perform miscellaneous design changes, and

WHEREAS, Thompson-Hysell Engineers has requested an additional fee of \$20,965 to cover the additional scope of work, and

WHEREAS, Thompson-Hysell Engineers also has submitted to City an invoice for miscellaneous fees for reimbursable expenses in accordance with the original agreement in the amount of \$1,076.85,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with Thompson-Hysell Engineers, in the amount of \$22,041.85 for additional design services and for reimbursable expenses

for the Pelandale Intersection Improvements and the Prescott/Snyder Traffic Signal projects.

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 October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-523**

A RESOLUTION FINDING THAT THE “MODIFICATION OF 3 TRAFFIC SIGNALS” (STANDIFORD/COLONIAL, EL VISTA/ENCINA, AND TULLY/RUMBLE) PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (MEIR), SCH NO. 1999082041

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final MEIR, SCH No. 1999082041, for the Modesto Urban Area General Plan, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a MEIR, 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 MEIR, whether the subsequent project was described in the MEIR, and whether the subsequent project was described in the MEIR as being within the scope of the project, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2002-11, reviewed and proposed “Modification of 3 Traffic Signals” Project (Standiford/Colonial, El Vista/Encina, and Tully/Rumble) “Project,” which determines that the proposed project is within the scope of the project covered by the MEIR, that the proposed project will have no additional, significant effect on the environment that was not identified in the MEIR, and that no new or additional mitigation measures or alternatives may be required,

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 “Modification of 3 Traffic Signals” Project (Standiford/Colonial, El Vista/Encina, and

Tully Rumble), 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 Project is consistent with the City of Modesto General Plan and is within scope of the project covered by the General Plan Final MEIR (SCH No. 1999082041).
- B. 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 General Plan MEIR are required.
- C. 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 General Plan MEIR are required.
- D. There is no new information of substantial importance which was known and could not have been known with the exercise of reasonable diligence when the General Plan MEIR was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the General Plan MEIR; 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 General Plan MEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a Notice of Approval 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 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


MICHAEL D. MILICH, City Attorney

City of Modesto
Initial Study

THREE TRAFFIC SIGNAL MODIFICATIONS

E.A./E.T. No: 2002-11

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

A. Project Title:

Three Traffic Signal Modifications ("Project")

B. Lead Agency Name and Address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact Person, Address, and Phone Number:

Steven Liu, Engineering and Transportation Department, (209) 577-5297

D. Project Locations:

At three (3) signalized intersections with the City as follows:

- Standiford and Colonial
- El Vista and Encina
- Tully and Rumble

E. Project Sponsor:

City of Modesto, P.O. Box 642, Modesto, CA 95353

F. General Plan Designation:

Location 1: Standiford/Colonial – MU (Mixed Use). (MU)

Location 2: Tully/Rumble – R (Residential)

Location 3: El Vista/Encina – R (Residential)

G. Zoning:

Location 1: Standiford/Colonial – PD (Planned Development), R2 (Medium Density Residential), and R3 (Medium High Density Residential).

Location 2: Tully/Rumble – R1 (Low Density Residential), and R2 (Medium Density Residential).

Location 3: El Vista/Encina – R1 (Low Density Residential)

H. Description of Proposed Project:

The City is proposing to modify three existing traffic signals at 3 intersections within the City as follows: Standiford and Colonial, El Vista and Encina, and Tully and Rumble. The project will include the addition of protective/permissive left-turn phasing, and upgrading existing signal equipments. The proposed project will help reduce stopping delay, increase traffic safety, and result in a reduction in air pollution at the locations.

I. Surrounding Land Uses:

Location 1: Standiford/Colonial – PD (Planned Development), R2 (Medium Density Residential), and R3 (Medium High Density Residential).

Location 2: Tully/Rumble – R1 (Low Density Residential), R2 (Medium Density Residential), and PD (Planned Development).

Location 3: El Vista/Encina – R1 (Low Density Residential)

J. Other Public Agencies Whose Approval is Required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The Project will not result in a physical change to any existing land use. It is consistent with the General Plan designation for this site. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The Project will not result in a physical change to any existing land use. The proposed use is consistent with the General Plan in land use and intensity, and the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. Therefore, the project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are, therefore, still valid.

D. Loss of Productive Agricultural Land

All existing Traffic Signals are located in developed areas outside of productive agricultural land. Therefore, the project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) and they are, therefore, still valid.

E. Increased Demand for Water Supplies

The proposed Project includes traffic signal related improvements, and will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed Project includes traffic signal related improvements, and will create no additional 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.

G. Loss of Sensitive Wildlife and Plant Habitat

All existing Traffic Signals are located in developed areas and are not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat

above and 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The proposed improvements will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore, still valid.

L. Increased Demand for Schools

The proposed improvements will not create any additional demand for schools. 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 still valid.

M. Increased Demand for Police Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. 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.

N. Increased Demand for Fire Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. 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.

P. Generation of Hazardous Materials

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. 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-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. 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.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed Installation of Three Traffic Signal Modifications project is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the Three Traffic Signal Modifications project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed Three Traffic Signal Modifications project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the Three Traffic Signal Modifications project that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR 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.

Signature:

L. Steven Liu
Assistant Traffic Engineer

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-524**

**A RESOLUTION AWARDING BID AND APPROVING A \$210,358
CONSTRUCTION CONTRACT WITH PROFESSIONAL CONSTRUCTION
SERVICES FOR THE PROJECT ENTITLED "MODIFICATION OF 3 TRAFFIC
SIGNALS"**

WHEREAS, the bids received for the "Modification of 3 Traffic Signals" project were opened at 11:00 a.m., on September 9, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$210,358 received from Professional Construction Services be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for "Modification of 3 Traffic Signals" project to Professional Construction Services, and approves a \$210,358 contract for completion of said 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 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-525**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET 1) TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-2300-160-N067 TO REFLECT THE ANTICIPATED INCREASE OF CONSTRUCTION COSTS, 2) TO SEPARATE THE EXISTING CAPITAL FACILITY FEES (CFF) TRANSFER OF \$55,695 TO MY-2300-700-N067-9141 INTO TWO SEPARATE PROJECT APPROPRIATIONS TO MY-2300-700-N067-9141 (\$23,807) AND MY-2300-700-N498-9141 (\$31,888), AND 3) TO INCREASE THE CFF TRANSFER APPROPRIATION OF MY-2300-700-N067-9141 TO \$68,231 TO COVER THE INCREASED EXPENDITURE APPROPRIATION

WHEREAS, on September 9, 2003, the City Council received bids for a project titled, "Modification of 3 Traffic Signals," Account No. MY-2300-160-N067, and

WHEREAS, the acceptable low bidder was Professional Construction Services, of Pleasant Hills, California, with a bid of \$210,358, and

WHEREAS, the City has obtained CMAQ funding to pay for up to \$181,486, of the project costs and the remaining portion will be appropriated from CFF reserves, and

WHEREAS, \$44,424 in additional local matching funds is required to fully fund the construction of this project, and

WHEREAS, CIP Projects 2300-160-N067 and 2300-160-N498 were once combined as a single project and the existing CFF transfer of \$55,695 to these projects is presently combined in 2300-700-N067-9141, and

WHEREAS, there are sufficient funds in the CFF reserve to fully fund 2300-160-N067,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to:

- 1) increase the expenditure appropriation of MY-2300-160-N067 to reflect the anticipated increase of the construction costs,
- 2) separate the existing CFF transfer of \$55,695 to MY-2300-700-N067-9141 into two separate project appropriations to MY-2300-700-N067-9141 (\$23,807) and MY-2300-700-N498-9141 (\$31,888), and
- 3) increase the CFF transfer appropriation of MY-2300-700-N067-9141 to \$68,231 to cover the increased expenditure appropriation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-526**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR PROPOSALS (RFP) FOR SPOILS REMOVAL
SERVICES FOR AN ESTIMATED ANNUAL COST OF \$75,000.00**

WHEREAS, the Operations and Maintenance Department-Water Division has requested the purchase of spoils removal services, and

WHEREAS, the spoils removal service contractor would remove dirt, mud, asphalt, and other debris related to various maintenance and construction activities, and

WHEREAS, this activity affects a number of work areas in the Department, and

WHEREAS, one of the largest generators of spoil materials is the Water Operations Division where spoils materials are generated each time staff repairs a water leak, installs a new water line, renews a water service, and

WHEREAS, if left along the roadside the spoil materials become an eyesore within the community as well as an can attractive nuisance with potential liability concerns for the City, and

WHEREAS, one of the benefits of removing spoils is that the material may be recycled into other products used in construction projects, and

WHEREAS, recycling keeps the materials out of landfills and out of the waste stream, and

WHEREAS, the estimated annual total cost for spoils removal services is \$75,000.00, and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, by soliciting competitive bids the City will achieve the best value for spoil removal services and meet the City's requirements for formal bidding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for spoils removal services is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for spoils removal services to be opened in 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 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-527**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A SOLE SOURCE PURCHASE ORDER TO PACO PUMPS JOHNSTON
PUMP OF SACRAMENTO, CA. FOR REBUILDING THREE (3) PACO
JOHNSTON EFFLUENT PUMPS IN THE AMOUNT OF \$65,522.56.**

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of rebuilding three (3) Paco Johnston effluent pumps, and

WHEREAS, Paco Pumps Johnston Pump is the Original Equipment Manufacturer (OEM) for these pumps, and

WHEREAS, due to the critical function these pumps perform they need to be rebuilt by the OEM to ensure they are returned to their original specifications, and

WHEREAS, these pumps are used to pump treated secondary effluent into the San Joaquin River during the months of October through May, and

WHEREAS, river conditions and effluent quality can and usually does shorten the season, and

WHEREAS, due to the sensitive nature of this process, we are required to closely monitor the dilution ratios into the river, and

WHEREAS, this is controlled by three (3) Paco Johnston pumps, and

WHEREAS, these pumps have been in service since 1969 and are now due for rebuild to ensure they provide reliable service during the annual window we have for river discharge, and

WHEREAS, a pump failure could result in the inability to discharge to maximize allowable flow to the river which can result in lack of storage capacity for the following reason,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is authorized to issue a purchase order to Paco Pumps Johnston Pump of Sacramento, Ca. in the amount of \$65,522.56.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-528**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A SOLE SOURCE PURCHASE ORDER TO DOOR OLIVER EIMCO OF SALT LAKE CITY, UTAH FOR ONE MAST TYPE ROTARY DISTRIBUTOR CENTER ASEMBLE IN THE AMOUNT OF \$85,912.89, AND RESCINDING RESOLUTION NO. 2003-442.

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of a mast type rotary distributor center assemble, and

WHEREAS, on August 12, 2003, the City Council adopted Resolution 2003-442 authorizing the Purchasing Division to solicit bids for a mast type rotary distributor center assemble, and

WHEREAS, it was later determined by the Operations and Maintenance Department and Purchasing Division staff that this is a sole source requirement, and

WHEREAS, Dorr Oliver EMICO is the original equipment manufacturer for this equipment, and

WHEREAS, the mast type rotary distributor center assemble is a major component to the fixed film reactor located at he Secondary Treatment Plant, located at 7007 Jennings Road, and

WHEREAS, it is utilized to evenly distribute waste water over reactor media, and

WHEREAS, the purpose of the reactor is to remove Bio Oxygen Demand (BOD) from the waste water, and

WHEREAS, by authorizing the sole source purchase for a mast type rotary distributor center assembly the WQC Division will be able to maintain plant operations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is authorized to issue a purchase order to DC Frost Inc. of Walnut Creek, Ca. in the amount of \$85,912.89.

BE IT FUTHER RESOLVED that Resolution N0. 2003-442 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

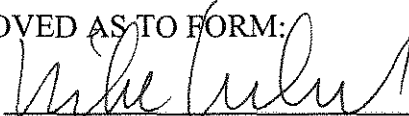
ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-529**

**A RESOLUTION RESTATING GUIDELINES AND APPROVING CHANGES TO
THE DOWN PAYMENT ASSISTANCE PROGRAM, AND RESCINDING
RESOLUTIONS NOS. 95-445, 97-40, 97-154, 2001-434, 2001-606, AND 2002-419.**

WHEREAS, the City of Modesto administers a federally-funded Down Payment Assistance Program (DPAP) to help low and moderate income households purchase a home in Modesto, and

WHEREAS, pursuant to Resolution No. 95-445 adopted on September 12, 1995, the City Council approved dropping the first time buyer requirement, reducing the cash equity requirement for persons under 80% of the median income from 3% to 1%, increasing the maximum assistance for persons under 80% of median income to \$7,500, limiting the program to new housing, and determining sales prices for affordability, and

WHEREAS, pursuant to Resolution No. 97-40 adopted on January 14, 1997, the City Council approved increasing the sales price limits and adjusting the loan terms to allow deferral of payments for five years, and

WHEREAS, pursuant to Resolution No. 97-154 adopted on March 25, 1997, the City Council approved expanding the program to include existing homes, and

WHEREAS, pursuant to Resolution No. 2001-434 adopted on August 14, 2001, the City Council approved increasing the eligible sales price limit to the median sales price index, increasing the maximum loan from \$7,500 to \$25,000, increasing the amortization period from 15 years to 20 years, and requiring the buyer to put at least 1.5% of the purchase price as the buyer's contribution, and

WHEREAS, pursuant to Resolution No. 2001-606 adopted on November 27, 2001, the City Council approved lowering the interest rate from a 5% fixed simple interest to a 3% fixed simple interest, and increasing the amortization period from 25 years to 30 years with the first five years being interest and payment free, requiring staff and Housing Rehabilitation Loan Committee review of loan applications, requiring site visits to test, contain or abate lead-based paint, requiring that illegal conversions and health and safety hazards be addressed prior to loan closing, and authorizing staff to issue a Request for Proposals for home buying classes at \$250 per class, and

WHEREAS, pursuant to Resolution No. 2002-419 adopted on August 27, 2002, the City Council approved requiring that loan applicants reside and/or work in the City of Modesto for at least six consecutive months, increasing the sales price limit up to \$174,450, which is the mortgage limit in Stanislaus County for Federal Housing Administration (FHA) loans, and increasing the sales price limit when FHA limit increases, and

WHEREAS, staff recommends that the Down Payment Assistance Program be further amended to change the program format to a pre-qualifying system to expedite the loan process; to increase the maximum loan amount from \$25,000 to \$60,000; to revise and update the DPAP guidelines; to change the residence requirement to state "The City will allow any eligible low or moderate-income household that has lived within City limits and unincorporated areas or within the City's sphere of influence and has a Modesto address, or has worked within the City limits for the last six consecutive months to apply for a down payment assistance loan"; and to revise the loan amount for the Down Payment Assistance Program on an annual basis, and

WHEREAS, the Citizens Housing and Community Development Committee met on February 28, 2003, and August 22, 2003, and supported the recommended changes to the Down Payment Assistance Program, and

WHEREAS, the Housing Rehabilitation Loan Committee met on August 7, 2003, and approved the recommended changes to the Down Payment Assistance Program, and

WHEREAS, it is desirable that one resolution be adopted which would restate the requirements for eligibility for applicants to the City of Modesto Down Payment Assistance Program and incorporate the various amendments as mentioned above and that it would be appropriate to rescind those resolutions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby restates the guidelines and approves the changes to the City of Modesto Down Payment Assistance Program as shown on **Exhibit "A"**, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution Nos. 95-445, 97-40, 97-154, 2001-434, 2001-606 and 2002-419 are hereby rescinded effective October 7, 2003.

BE IT FURTHER RESOLVED that this resolution shall go into effect and be in full force and operation on and after October 8, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Frohman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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



City of Modesto

Parks, Recreation & Neighborhoods Department



**For More Information Please Call:
(209) 577-5247**

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INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Down Payment Assistance Program (DPAP) to assist low and moderate-income families purchase a home. With funding from the Community Development Block Grant (CDBG) Program and through partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The DPAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

For more information please contact:

**City of Modesto, Parks, Recreation and Neighborhoods
Department
1010 10th Street, Suite # 4300,
Modesto, CA 95354.
Phone Number (209) 577-5247,
Fax Number (209) 544-3982.**

MAXIMUM LOAN AMOUNT

There is no application fee to apply for a DPAP loan. The maximum loan for each household is determined as follows: For households earning up to 80% of area median income (AMI), the maximum loan is up to \$60,000. The current income eligibility limits for low-income households are:

HOUSEHOLD SIZE	INCOME LIMIT	HOUSEHOLD SIZE	INCOME LIMIT
1 Person	\$26,900	5 Person	\$41,450
2 Person	\$30,700	6 Person	\$44,550
3 Person	\$34,550	7 Person	\$47,600
4 Person	\$38,400	8 Person	\$50,700

(Effective March, 2003 and updated annually)

TERMS AND CONDITIONS

A. **Purchase Price**

The maximum price allowed under this program shall not exceed \$202,350. This price shall be modified based upon information available from FHA Mortgage Limits provided by the U.S. Department of Housing and Urban Development.

B. **Terms**

- The loan shall not accrue interest during the first five years of the term of the loan.
- During the first five years of the term of the loan, applicants shall make monthly payments of 1% of the loan amount. These payments will go towards the principal of the loan.

- On the sixth year interest will start to accrue at a 3% annually on the balance of the loan. For example: The principal balance on a \$60,000 loan would only be \$57,000.00. The payments under these conditions will be approximately \$270.30.
- Applicants can qualify for a grant of 1/5 of the balance of the loan and amortize the balance under a new agreement if they meet the following conditions:
 - i. Must reside in the property purchased with the assistance of the DPAP for 10 consecutive years,
 - ii. Have a good payment history, which includes no late payments, missed payments, or payment arrangements.

Other repayment provisions include the following:

1. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership, refinancing of the property, upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).
2. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.
3. The DPAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Down Payment Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

**SILENT SUBORDINATE MORTGAGE/SUBORDINATION
POLICY**

The DPAP loan is silent, subordinate mortgage secured by a promissory note and City or Agency trust deed, and is recorded junior to the primary mortgage.

Subordination Policy:

Subordinations are not generally allowed. Any first lien on the property ("First Lien") held by an individual lender or investor (the "Lender") shall be prior and superior to the City Loan Agreement, the Declaration of Conditions, Covenants and Restrictions and the City Deed of Trust. However request for subordinations could be approved under the following conditions:

- The new loan shall not be larger than the original first loan.
- The new loan shall bear a fixed interest rate.
- The buyers shall not be allowed to take cash out.
- The buyers shall be responsible for paying the closing costs associated with the refinance.
- The City loan shall not be subordinated to a lower position than the original rank.
- The lender/title company shall provide a copy of cost comparison showing the original terms and the proposed new terms.
- The lender/title company shall be responsible for preparing the subordination instrument at the sole costs of the borrowers.
- The lender/title company shall submit a Good Faith Estimate.
- The lender/title company shall submit a Closing Statement of the new loan.

PARTICIPANT ELIGIBILITY REQUIREMENTS

Eligible participants must meet the following eligibility criteria in order to participate.

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the area median income (AMI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later (see income limits previously specified). HOME and CDBG funds can only be used to assist households at or below 80% of AMI.

Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. The applicant must obtain the maximum loan amount from the first mortgage loan. The City of Modesto will determine the loan amount or gap by calculating the difference between the home sales price and the base loan amount obtained from the first mortgage loan.
3. Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.
4. Participant(s) or any household member cannot have owned a home within the past year from date of application. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)
5. Eligible participant(s) earning up to 80% of the Area Median Income must contribute 50% of the down payment required by the lender from their own funds.
6. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.
7. There are some credits issues that applicants must allow for certain time to pass before they can qualify for a DPAP loan. These exceptions are as follows:
 - Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)

- Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

8. Applicant's FICO (Fair Isaac Company) score must be 610 or higher.
9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

Note: Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original DPAP application will be considered. Applicants will not be allowed to make any material changes in the DPAP application in an attempt to reverse a City loan denial.

LOCAL RESIDENCY REQUIREMENT

The City allows any eligible low or moderate-income household that has lived within City limits and unincorporated areas or within the City's sphere of influence and has a Modesto address **OR** works within the City limits for the last six (6) consecutive months to apply for a DPAP loan.

ELIGIBLE HOMES

Homes considered for purchase with a City DPAP loan must meet the following requirements:

1. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.

Homes are considered vacant if they have been unoccupied for at least 6 months prior to date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.

2. A professional home inspector must inspect the property. Items identified as potential health or safety risks to the occupants must be corrected prior to any commitment of City funds. Also, any housing code violations as determined by a professional property inspector must be corrected if they are determined to pose a health or safety risk.
3. The purchase price of the home must not exceed an appropriate housing index.
4. The property must be appraised to determine that the value should be greater or equal to the purchase price.
5. Houses built prior to January 1978 must be inspected for lead-based paint by a Certified Risk Assessor/ Inspector. Proof of corrections or of passing must be provided to the City prior to any commitment of City funds.

The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE DPAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The DPAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, mortgage credit certificates (MCC's) and Stanislaus County public facilities fees (PFF) waivers/deferrals. Homebuyers are encouraged to request that participating lenders apply for MCC's and PFF waivers/deferrals on their behalf, since such studies may allow homebuyers to qualify for a higher mortgage.

ASSETS LIMITS

A household's assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than \$15,000 in liquid assets to be eligible for the program. Should the household's assets be greater than \$15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

- Savings account and the average 6-month balance of checking account(s).
- Stocks, bonds, certificates of deposit, money market funds, and other investment funds.

- Inheritance, lump-sum insurance payments, already received.
- Settlements for personal or property damage already received.
- Equity in real property or other capital investments.
- Cash value of trusts that are available to the household.
- Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
- Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
- Assets that, although owned by more than one person, allow unrestricted access by the applicant.
- Lump-sum receipts such as inheritances, jewelry, coin collections, antique cars, capital gains, etc.
- Personal property held as investment such as gems, jewelry, coin collections, etc.
- Cash value of life insurance policies.

CLOSING COST AND FIRST MORTGAGE LOAN TYPE LIMITATIONS

DPAP loans may be used to cover all reasonable closing costs the buyer is responsible for paying. Examples (list not inclusive) include:

- Loan origination fee

- loan discount fee,
- appraisal fee,
- title report/insurance,
- credit report,
- pre-paids,
- professional home inspections, and other normal settlement charges.

Reimbursement for loan origination fee is limited to 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost (applies to CHFA 1-year buy-down only). DPAP loans cannot be used to pay off previous debts incurred by the buyer.

DPAP loans cannot be used with variable rate loans (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the DPAP program are (1) one-year interest rate buy-downs under the CHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down. All loans must be delivered at par with no rebate or overage to the originator.

CO-SIGNER RESTRICTIONS

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant's loan approval. When co-signers are required, such co-signers

cannot hold title to the property being purchased with DPAP assistance. Co-signers must sign the City's Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers' income and other criteria (e.g., real estate ownership) are not considered in determining the household's eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

HOMEBUYER COUNSELING WORKSHOP

Program participants will be required to complete a homebuyer-counseling workshop from an agency approved by the City.

The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a home, shopping for a mortgage loan, home maintenance, and budgeting, and on-going financial costs.

The workshop provider upon the participant's completion of the class will issue a certificate of completion. Participant must present the certificate (evidence of program completion) to the City of Modesto for inclusion in the City DPAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

PROFESSIONAL HOME INSPECTION

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a 17-days right of rescission to review the results of the home inspection.

Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front. Participants would be reimbursed at close of escrow, with the inspection cost being included in their DPAP loan. Reimbursements for professional home inspections shall not exceed \$250. If escrow does not close, the City will not reimburse the participant, the home inspector, or any other party for the cost of the home inspection fee.

CONDITIONS FOR DISBURSING FUNDS

Before disbursing any funds the homebuyer must:

1. Meet all the Down Payment Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional letter of credit.
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).

APPLICATION PROCESS

1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.
2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.
3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the DPAP application, verify the information, and submit the complete loan application package to the City for approval.
4. Staff will review application and prepare proper documents to submit loan to the loan committee for pre-qualification.
5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.
6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.
7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.

8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.
9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.
10. Escrow agent shall record the City's Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.
11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.
12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

RECERTIFICATION

1. Annual:
 - Borrower shall be required to submit an annual affidavit of occupancy;
 - Lender shall, upon receipt provide, City with any Notice of Default on taxes;
 - City shall be named as a beneficiary on hazard insurance policies and shall be notified of modifications or cancellations of insurance coverage.

2. Periodic Recertification:

- The City may require periodic recertification other than at annual where change in occupancy or other circumstances may necessitate and eligibility review.

VIOLATIONS AND PENALTIES

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest rate from the date of violation.

DEBT RATIO'S GUIDELINES

Following are the two types of debt ratios the City of Modesto will use:

- **Front-End Ratio:** The standard guideline is 29%. The front-end ratio is the gross income divided by the new PITI (Principal, interest, taxes and insurance) mortgage payment.

The typical debts used to determine the qualifying front-end ratios are the current and or future house payment.

- **Back-end ratio:** The standard guideline is 41%. This is the gross income divided by the new PITI mortgage payment and also the minimum monthly payments from the applicant's liabilities.

The typical debts used to determine the qualifying back-end ratio's are the minimum required monthly payments on all of the following:

- Auto loans
- Student loans
- Personal loans
- Charge cards
- Child Support
- Alimony
- Federal Tax Lien Repayment Schedules

DETERMINING ANNUAL INCOME

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the "gross" amount of income of *all* adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income.

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.
2. **Income of all adult household members.** The definition of Annual Income contains income "inclusions"—types of income to be counted—and income "exclusions"—types of income that are not considered (e.g., income of minors); and
3. **Anticipated to be received.** Annual income is used to determine eligibility and a household's expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.

*The following items shall be **included** in determining Annual Income:*

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);
2. Net income from the operation of a business or profession;
3. Interest, dividends, and other net income of any kind from real or personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.
4. Lottery winnings paid in periodic payments.
5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).
6. Payments in lieu of earnings such as unemployment, worker's compensation and severance pay;
7. Welfare assistance;
8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
9. All regular pay, special pay, and allowances of a member of the Armed Forces.

*The following items shall be **excluded** in determining Annual Income:*

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payment received for the care of foster children.
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
5. Income of a live-in aide.
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.
7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Temporary, nonrecurring, or sporadic income (including gifts).
10. Lump sum payment of SSI and Social Security benefits.
11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.

DOCUMENTS NEEDED TO PRE-QUALIFY FOR THE DPAP

The loan approval process depends on the applicant's documentation. To insure a smooth transaction, it is imperative that the applicants have all their documents gathered prior to the initial loan application. Following is a list of all the documents they will need.

1. Down Payment Assistance Application

2. Employment Information:

- Most recent two years complete tax returns with all schedules.
- Most recent two years W-2's, 1099's, etc.
- Most recent pay stubs covering one-month period.
- Verification of Employment for all adults wage earners in the applicant's household.
- *If applicable:* Self-employed will need three years tax returns and YTD Profit & Loss Statement.
- *If applicable:* Statement under penalty of perjury of unemployment status for unemployed adults.

3. Savings Information:

- Most recent three months complete bank statements for any and all accounts with all pages.
- Most recent statement from retirement, 401k, mutual funds, money market, stocks, etc.
- If you are receiving a "gift", you must provide the complete paper trail of the money's being given to you. Typically we will need the person's bank statement that is giving you the money.
- Documentation of other income sources and asset information.

4. Credit information:

- Most recent statements from your bills, indicating minimum payment and account numbers.
- Name, address and phone number of your landlord or 12 months cancelled rent checks.

- *If applicable:* should you have no credit. Copies of your most recent utility bills will be needed.
- *If applicable:* copy of complete Bankruptcy and discharge papers.
- *If applicable:* if you co-signed for a mortgage, car, credit card, etc. need 12 months cancelled checks, front and rear, indicating you are not making payments.
- Copy of drivers license
- Copy of Social security card
- *If applicable:* Copy of complete Divorce, Palimony, Alimony papers
- *If applicable:* copy of green card or work permit

5. First Mortgage Loan Documents

- Copy of Credit Reports (for each adult applicant). First Mortgage loan application, signed by lender and applicant
- Good Faith Estimate of settlement charges.
- Truth in Lending Disclosure Statement.
- Mortgage Credit Analysis worksheet.
- *If applicable:* for FHA loans include case number.
- *If applicable:* Copy of CHFA Buy down agreement.

DOCUMENTS NEEDED AFTER PRE-QUALIFICATION

After pre-qualifying for the DPAP and before disbursement of funds, applicant(s) have 30 days to submit the following documentation:

1. First Mortgage Loan Documents

- Copy of the California Residential Purchase Agreement and Joint Escrow Instructions signed by the buyer and the seller. If applicable copy of the attachments/ amendments.
- Copy of current appraisal and legal description.
- First Mortgage approval letter with any conditions attached.

2. Reports

- Home Inspection Report
- Termite Pest Control Report

- If the home was built before 1978 please submit a Lead Based Paint Inspection Report.

NOTE: The mortgage lender must submit the HUD-1 report to the City of Modesto within 5 days of closing of escrow.

EQUAL CREDIT OPPORTUNITY ACT

This Down Payment Assistance Program will be implemented in ways consistent with the City of Modesto's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

CONFLICTS OF INTEREST

In accordance to title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.



**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-530**

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR FINANCING AND CONSTRUCTION OF MILLER POINTE APARTMENTS, LOCATED AT THE SOUTHWEST CORNER OF MILLER AVENUE AND RIVERSIDE DRIVE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT.

WHEREAS, on December 28, 2001, the Housing Authority submitted an application for HOME funds for the Miller Pointe project, and

WHEREAS, on April 9, 2002, the City Council by Resolution No. 2002-168 approved an allocation of \$250,000 in HOME funds for the development of Miller Pointe, and

WHEREAS, this allocation along with other funding sources was estimated to be enough to complete the 16-unit apartment complex, and

WHEREAS, after the Housing Authority's bid opening on June 24, 2003, it was revealed that the lowest responsible bid was approximately \$600,000 higher than originally budgeted, and

WHEREAS, on September 12, 2003, the Housing Authority of the County of Stanislaus submitted a request for the City Council to consider and approve a Cooperative Agreement which is not financially binding on the City, but will assist the Housing Authority's efforts in pursuing bond financing for this project, and

WHEREAS, the Cooperative Agreement serves to assure the Housing Authority that the City will assist in conducting the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) public hearing for the Authority's bond financing, which is required in a community whenever the sale of bonds is planned, and

WHEREAS, the City Council is the only authority to conduct TEFRA public hearings for projects within its City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Cooperative Agreement between the City of Modesto and the Housing Authority of the County of Stanislaus for financing and construction of Miller Pointe Apartments, located at the southwest corner of Miller Avenue and Riverside Drive.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-531**

**A RESOLUTION AUTHORIZING THE PARKS, RECREATION AND
NEIGHBORHOODS DEPARTMENT TO APPLY FOR GRANT FUNDS FOR
THE PER CAPITA GRANT PROGRAM UNDER THE CLEAN WATER, CLEAN
AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION BOND
ACT OF 2002, IN ORDER TO ENCUMBER \$873,000 IN AFOREMENTIONED
FUNDING**

WHEREAS, the people of the State of California have enacted the Per Capita Grant Program which provides funds to meet the urgent need for safe, open and accessible local park and recreation facilities for increased recreational opportunities that provide positive alternatives to social problems, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto's City Council to certify by resolution the approval of the City of Modesto to apply for the Per Capita Allocation, and

WHEREAS, the City of Modesto will enter into a contract with the State of California, and

WHEREAS, the City of Modesto's share of the Per Capita funds is \$873,000, which the City now desires to encumber,

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 apply for grant funds for the Per Capita Program under the Clean Water, Clean Air,

Safe Neighborhood Parks and Coastal Protection Bond Act of 2002, in the amount of \$873,000 in Per Capita Funds.

BE IT FURTHER RESOLVED that the City Council appoints the City Manager or his designee as agent to conduct all negotiations, execute and submit all documents to obtain the funding including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of project(s).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-532**

**A RESOLUTION AUTHORIZING THE PARKS, RECREATION AND
NEIGHBORHOODS DEPARTMENT TO APPLY FOR GRANT FUNDS FOR
THE ROBERTI-Z'BERG-HARRIS BLOCK GRANT PROGRAM UNDER THE
CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND
COASTAL PROTECTION BOND ACT OF 2002, IN ORDER TO ENCUMBER
\$537,781 IN AFOREMENTIONED FUNDING**

WHEREAS, the people of the State of California have enacted the Roberti-Z'Berg-Harris Grant Program which provides funds to meet the urgent need for safe, open and accessible local park and recreation facilities for increased recreational opportunities that provide positive alternatives to social problems, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto's City Council to certify by resolution the approval of the City of Modesto to apply for the Roberti-Z'Berg-Harris Block Grant Allocation, and

WHEREAS, the City of Modesto will enter into a contract with the State of California, and

WHEREAS, the City of Modesto's share of the Roberti-Z'Berg-Harris Block Grant funds is \$537,781, which the City now desires to encumber,

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 apply for grant funds for the Roberti-Z'Berg-Harris Block Grant Program under the

Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002, in the amount of \$537,781 in Roberti-Z' Berg-Harris Block Grant Funds.

BE IT FURTHER RESOLVED that the City Council appoints the City Manager or his designee as agent to conduct all negotiations, execute and submit all documents to obtain the funding including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of project(s).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-533**

**A RESOLUTION APPROVING RE-ALLOCATION OF \$40,000 IN
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING FOR
FISCAL YEAR 2003-2004 AND AUTHORIZING THE CITY MANAGER OR HIS
DESIGNEE TO SIGN AND EXECUTE THE AGREEMENTS.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (H.U.D.), and

WHEREAS, the City receives a Community Development Block Grant (CDBG), and

WHEREAS, the City receives this grant 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 of the City's available CDBG entitlement grant may be allocated to nonprofit organizations for the purposes 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, in Fiscal Year 2003-2004, fifteen percent of the City's available CDBG entitlement is \$433,500, and

WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-68) on February 4, 2003, approving an allocation of \$150,000 in CDBG public service funds to the Modesto Police Department for the operation of the Crime Free Multi-Housing Program, and

WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-184) on April 8, 2003, approving an allocation of \$190,745 in CDBG funding requests for FY 2003-2004, and

WHEREAS, on May 13, 2003, the Modesto City Council passed a resolution (Resolution No. 2003-238) approving the allocation of \$69,888 in CDBG funding, and

WHEREAS, on April 8, 2003, the Modesto City Council also passed a resolution approving the balance of \$22,867 of CDBG to be allocated through a second RFP process, and

WHEREAS, on June 10, 2003, the Modesto City Council passed a resolution (Resolution No. 2003-283) awarding the balance of \$22,867, and

WHEREAS, staff has received notification that \$40,427 in previously awarded funding for an After-School Learning Program at Orville Wright School, is now available for re-allocation, and

WHEREAS, Modesto City Schools 21st Century Afterschool Learning Program has submitted a letter proposing to undertake this program, and

WHEREAS, at its August 22, 2003, meeting, the Citizens Housing and Community Development Committee supported re-allocation of \$40,000 to the Modesto City Schools 21st Century Afterschool Learning Program for an After-School Learning Program at Orville Wright School, and

WHEREAS, the balance of \$427 in available funds will be held in the public service grant account to pool with any other unused funds for future funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the re-allocation of \$40,000 in Fiscal Year 2003-2004 CDBG funding to Modesto City Schools 21st Century Afterschool Learning Program.

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 any documents with respect to implementation of the re-allocation of Fiscal Year 2003-2004 CDBG Public Service Grant funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None.

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-534**

**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 following classification:

Executive Secretary

The job specification for this classification is being amended as a result of updating the job specification in anticipation of opening a recruitment. The specification for the classification of Executive Secretary, 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 October 7, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXECUTIVE SECRETARY

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 highly responsible, confidential and complex administrative/secretarial duties for a Department Director and/or a Deputy City Manager.

DISTINGUISHING CHARACTERISTICS

The work in this class is distinguished by the high level of administrative assistance and technical support to an Executive and at the Executive's direction, to other senior managers.

Positions at this level are characterized by the requirement for in-depth comprehensive knowledge of the functions of the assigned Department and the City at large.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Department Director and/or Deputy City Manager.

May exercise direct supervision over clerical and other 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:

Perform a wide variety of highly responsible, complex and confidential duties in support of the administration of a department or specific functional area.

Respond to calls and visitors with tact and diplomacy; respond to requests for sensitive information and assistance; resolve citizen concerns and complaints.

Maintain liaison with city officials and staff, officials and staff of other agencies, and the

public, to obtain and relay information and coordinate activities.

Represent the department at staff and administrative meetings, committees, and related meetings.

Interpret and apply City policies, procedures, and administrative directives, and communicate laws and regulations in response to inquiries or complaints; refer inquiries as appropriate.

Evaluate new and existing legal, administrative and other requirements and may draft policies and procedures to ensure compliance and overall effectiveness of staff operations.

Maintain awareness of current issues in assigned areas of responsibility.

Research data and compile information to be used in special projects and comprehensive reports.

In the absence of the Department Manager, may sort and distribute time sensitive or confidential mail for follow-up as necessary. Independently respond to letters, electronic communication and general correspondence on behalf of the Department.

Coordinate and make travel arrangements for a Department Director, Deputy City Manager and key staff. Maintain appointment schedules and calendars. Organize and arrange meetings, conferences and civic functions.

Prepare and assemble reports, manuals, newsletters and other materials and distribute to staff.

Develop, maintain and archive a variety of files and records for information related to a department; maintain manuals and update resource materials.

Plan, prioritize, assign, supervise and review the work of a Department's support staff. Participate in the recommendation of the appointment of personnel; provide or coordinate staff training; work with employees to improve performance; implement disciplinary procedures as necessary.

Evaluate, develop, implement and maintain systems and procedures for the efficient operation of assigned area including recommendations for procedural changes affecting staff.

Participate in budget preparation and administration; prepare cost estimates for budget recommendations; submit justifications for budget items; monitor and control expenditures.

Prepare, distribute, and post agendas and minutes for a variety of meetings including Boards, Committees, Commissions, and other civic organizations; provide additional administrative support as necessary which may include the transcription of recorded or written information.

Coordinate the processing of City Council and Council Committee reports.

Marginal Functions:

May be requested to take and transcribe dictation.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Business English, letter writing formats and technical report preparation.

Modern office management practices and procedures including filing systems management and the operation of a wide variety of office equipment and computer software.

Principles of organization, administration, supervision, training and personnel management.

Principles and procedures of fiscal and statistical record keeping and budget preparation and administration.

Applicable Federal, State, and local laws, codes, programs and regulations.

Functions and organization of municipal government.

Complex filing systems management and document administration.

Skill in:

Interpreting and applying administrative and departmental policies, procedures, laws and regulations.

Working cooperatively with other departments, City officials, outside agencies and members of the public.

Performing responsible and difficult administrative/secretarial work involving the use of independent judgment and personal initiative.

Understanding the organization and operation of the City and of outside agencies as necessary to assume assigned responsibilities.

Analyzing office operations and technical problems, evaluating alternatives and recommending solutions.

Compiling and maintaining complex and extensive records and preparing a variety of reports.

Maintaining confidential data and information for executive staff.

Independently prepare a wide variety of correspondence, brochures, spreadsheets and other materials.

Working independently in the absence of supervision and exercising sound independent judgment within general policy guidelines.

Operating and using modern office equipment including a computer and related software.

Typing, word processing and taking and transcribing dictation at a speed necessary for successful job performance.

Communicating clearly and concisely, both orally and in writing.

Establishing and maintaining 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 administrative/clerical experience of a complex nature. One year of the required experience must include supervisory or lead responsibility.

Training:

Equivalent to graduation from high school or G.E.D. equivalent supplemented by college coursework in office management, computer technology or a related field.

Other Requirements:

Upon appointment specified positions must possess a valid California Driver's License and have a satisfactory driving record; and/or be able to pass a background investigation. After appointment, those specific positions must maintain a valid California Driver's License.

WORKING CONDITIONS

Environmental Conditions:

Office environment; specified positions may be required to work some evening meetings or early mornings to set-up for meetings.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 535**

A RESOLUTION ACCEPTING A GRANT ENTITLED "CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN" FROM THE STATE OFFICE OF TRAFFIC SAFETY FOR THE GOAL OF INCREASING STATEWIDE SEAT BELT USE TO 94 PERCENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as California Seat Belt Compliance Campaign from the State Office of Traffic Safety (hereafter referred to as OTS), and

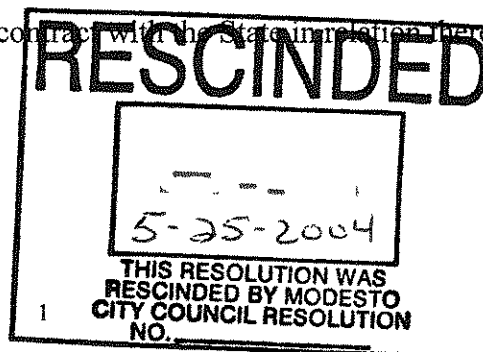
WHEREAS, the goal of the grant is to increase statewide seat belt use to 94 percent by the year 2004 through the combined efforts of the California Highway Patrol, the State Office of Traffic Safety and local law enforcement, and

WHEREAS, the monies provided in this grant will provide for overtime police personnel for seat belt enforcement during the two week long mobilization period of November 17 – 30, 2003, and

WHEREAS, there is no required City match for this program and all costs are paid for by funds from the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a grant from the State Office of Traffic Safety to participate in the California Seat Belt Compliance Campaign, and

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is authorized, to execute the grant contract with OTS, including any extentions or amendments thereof and any subsequent contract with the State in relation thereto.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-536**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/2004 ANNUAL
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS**

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as California Seat Belt Compliance Campaign from the State Office of Traffic Safety, and

WHEREAS, the goal of the grant is to increase statewide seat belt use to 94 percent by the year 2004 through the combined efforts of the California Highway Patrol, the State Office of Traffic Safety and local law enforcement, and

WHEREAS, the monies provided in this grant will provide for overtime police personnel for seat belt enforcement during the two week long mobilization period of November 17 – 30, 2003, and

WHEREAS, there is no required City match for this program and all costs are paid for by funds from the State,

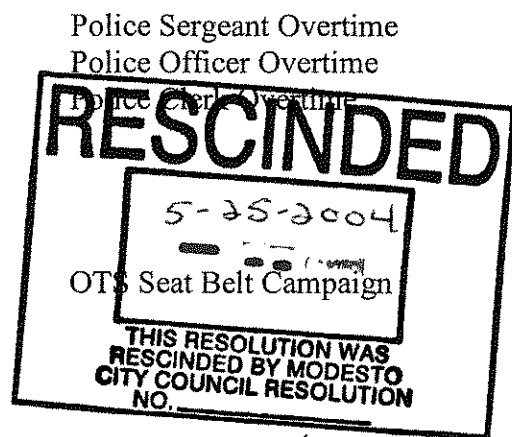
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that to initiate this grant project the 2003/2004 Annual Budget is hereby amended as indicated below:

Expense:

To:	0410-190-2997-0130	\$8,329.00	Police Sergeant Overtime
		\$24,838.00	Police Officer Overtime
		\$1,302.00	Police Officer Overtime
	Total	\$34,469.00	

Revenue:

To:	0410-190-2997-3490	\$34,469.00
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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 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-537**

A RESOLUTION DENYING THE APPEAL OF JOHN AND CAROLYN BRONOWSKI TO A BOARD OF ZONING ADJUSTMENT DECISION DENYING THE APPEAL OF JOHN AND CAROLYN BRONOWSKI TO A STAFF DECISION APPROVING A SECOND-STORY ADDITION TO A HOME LOCATED AT 928 ENSLEN AVENUE.

WHEREAS, Section 10-2.508(b) requires plot plan review by the Community and Economic Development Director for second-story additions to homes in existing residential areas in the R-1 Zone, and

WHEREAS, on June 10, 2003, John C. Williams submitted a plot plan and elevations for a second-story addition to a home at 928 Enslen Avenue, and

WHEREAS, on July 11, 2003, the Community and Economic Development Director issued a letter to the applicant and adjoining property owners approving the second-story addition, and

WHEREAS, on July 25, 2003, John and Carolyn Bronowski filed an appeal to the decision to the Board of Zoning Adjustment pursuant to Section 10-2.2801 of the Municipal Code, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 28, 2003, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, by Resolution No. 2003-17, the Board of Zoning Adjustment denied the appeal of John and Carolyn Bronowski and approved the second-story addition to the home located at 928 Enslen Avenue on August 28, 2003, and

WHEREAS, an appeal to the decision of the Board of Zoning Adjustment was filed with the Office of the City Clerk by John and Carolyn Bronowski on September 8, 2003, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on October 7, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, 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 said appeal to the decision of the Board of Zoning Adjustment should be denied and the decision of the Board of Zoning Adjustment should be affirmed because the proposed second-story addition meets all City Standards contained in Section 10-2.508 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of John and Carolyn Bronowski to a Board of Zoning Adjustment decision denying the appeal of John and Carolyn Bronowski to a staff decision approving a second-story addition to a home located at 928 Enslin Avenue is denied, and the decision of the Board of Zoning Adjustment is hereby affirmed for the reason set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-538**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO
IRRIGATION DISTRICT RELATING TO THE ADVANCE FUNDING OF
COSTS RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO
REGIONAL WATER TREATMENT PLANT AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the of the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID agree that the preliminary costs should be included in the project costs to be financed at a later date, and

WHEREAS, MID agrees to initially fund certain costs related to preliminary work for the project, and

WHEREAS, City agrees that MID should be reimbursed for certain costs related to preliminary work for the project, and

WHEREAS, City and MID agree that the preliminary costs shall be shared and reimbursed as summarized in **Exhibit "A"** attached hereto and incorporated herein by this reference, and

WHEREAS, the Economic Development Committee recommended approval of the Agreement at its August 11, 2003 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement relating to the advance funding of costs related to the Phase 2 Expansion of the Modesto Regional Water Treatment Plant authorizes the City Manager to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Exhibit "A"
ESTIMATED PROJECT COSTS
ADVANCED BY MID

ITEM	ESTIMATED TOTAL COST	AMOUNT PAID OR TO BE PAID DIRECTLY BY THE CITY	AMOUNT ADVANCED BY MID
Public Outreach Program	\$30,000	\$15,000	\$15,000
MID Labor Cost & Expenses	TBD*	-	TBD*
Initial Environmental Review (Insite Environmental)	\$12,000	-	\$12,000
Environmental Documentation (Jones & Stokes)	\$170,000	-	\$170,000
Preliminary Study (Black & Veatch)	\$120,000	\$60,000	\$60,000
Preliminary Engineering Design (Black & Veatch)	\$750,000	-	\$750,000
Amount to be Reimbursed by the City of Modesto **			\$1,007,000 plus TBD Costs

* TBD - To be determined at a future date

** Amounts advanced by MID shall be reimbursed by the City of Modesto at a future date through the Project's financing.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-539**

A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT IN AN AMOUNT NOT TO EXCEED \$170,000 WITH JONES AND STOKES TO PROVIDE CEQA SERVICES RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT.

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the of the MRWTP Phase 2 Expansion, and

WHEREAS, Council has authorized the City Manager to execute an agreement with MID relating to the advance funding of costs related to the MRWTP Phase 2 Expansion, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in MRWTP Phase 2 Expansion, and

WHEREAS, MID issued a request for proposals for CEQA services for the MRWTP Phase 2 Expansion, and

WHEREAS, On May 21, 2003, five proposals were received from environmental consulting firms in response to a Request for Proposals solicited by MID staff, and

WHEREAS, a task force was formed consisting of both City and MID staff, which reviewed each of the proposals for compliance with the project's scope of work and all five of the responding firms were interviewed on June 6, 2003, by the task force, and

WHEREAS, the task force selected Jones and Stokes as the firm most qualified to provide CEQA services for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff have reviewed the proposed scope of work for the proposed services, set forth in Attachment "A" attached hereto and incorporated by this reference, and agree they are appropriate for the MRWTP Phase 2 Expansion, and

WHEREAS, MID has negotiated a reasonable fee for the services to be provided not to exceed \$170,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an agreement in an amount not to exceed \$170,000 with Jones and Stokes to provide CEQA services related to the Phase 2 Expansion of the Modesto Regional Water Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmemeber Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Attachment "A"

Table 1. Jones & Stokes Cost Estimate for Phase 2 Expansion of the Modesto Regional WTP SEIR

Task	Consulting Staff										Production Staff Hours				Labor Total	Direct Expenses	Total Price		
	Brewer D	Murrell	Stevenson	Rivasplata A	Dour-Smith A	Bushnell S	Parsons S	Anderson K	Renehan S	Schafer B	Tech Editor	Graphic Artist	Admin Tech	Subtotal					
	Principal	Env Sci	Env Plnr Sr	Env Sci Sr	Env Sci Sr	Env Spec III	Env Spec II	Env Spec II	Env Spec II										
1. Prepare for and Attend Startup Meeting and Compile Information	6		6					12						\$2,532				\$196	\$2,728
2. Prepare Expanded Initial Study/Notice of Preparation and Project Scoping	8		24	2	2	2	2	40	8	12				\$9,850	6	6		\$816	\$10,466
3. Prepare Administrative Draft SEIR														\$0				\$0	\$0
3.1 Introduction, Project Description, and Executive Summary	2		12	2				16						\$3,108	64	16	4	\$5,732	\$6,732
3.2 Environmental Setting, Impacts, and Mitigation Measures	4		40		10	10	72	64	40	20				\$24,180				\$0	\$24,180
3.3 Cumulative and Growth Inducing Impacts	2		4	30	2	2	2	8						\$5,642				\$0	\$5,642
3.4 Alternatives Analysis	2		4	4	2	2	2	16						\$3,138				\$0	\$3,138
4. Prepare Draft SEIR														\$0				\$0	\$0
4.1 Incorporate Comments and Prepare Screen Check Draft SEIR	2		12	2				16						\$3,108	12	4		\$1,104	\$1,104
4.2 Prepare Draft SEIR			4					8						\$1,056				\$0	\$1,056
4.3 Issue Draft SEIR, Notice of Completion, and Notice of Availability			8	2				12						\$2,044				\$0	\$2,044
6. Prepare Final SEIR														\$0				\$0	\$0
6.1 Prepare Administrative Final SEIR	8		60	12	2	2	8	32	6	6				\$14,040	48	16	4	\$4,612	\$18,652
6.2 Prepare Screen Check Final SEIR			8	2				16						\$2,352				\$0	\$2,352
6.3 Prepare Final SEIR			4					8						\$1,056	4	4		\$544	\$1,600
6.4 Issue Final SEIR, Notice of Availability, and Hearing Announcements			2					12						\$1,144				\$0	\$1,144
6.5 Prepare Findings of Fact and Statements of Overriding Considerations	2		8	8				16						\$3,368				\$0	\$3,368
6.6 Prepare Draft Notice of Determination			4					4						\$748				\$0	\$748
6. Prepare Mitigation and Monitoring Plan														\$0				\$0	\$0
6.1 Prepare Draft MMP			8					32						\$3,124	8			\$560	\$3,124
6.2 Prepare Final MMP	2		4					8						\$1,372				\$0	\$1,372
7. Attend Meetings	16		32	16										\$7,968			8	\$392	\$8,360
8. Project Management	12		60					32						\$10,060			16	\$784	\$11,744
Total hours	66		302	80	18	18	86	352	54	38					142	46	36		
Billing rates (2003 Sacramento)	\$158		\$110	\$120	\$120	\$120	\$95	\$77	\$77	\$95					\$70	\$66	\$48		
Subtotals	\$10,428		\$33,220	\$9,600	\$2,160	\$2,160	\$8,170	\$27,104	\$4,158	\$3,610				\$100,610	\$9,940	\$3,036	\$1,764	\$14,740	\$115,360
Direct Expenses																			
523.02 Reproductions																			\$2,650
523.03 Equipment Rental																			\$200
523.04 Postage and Delivery																			\$450
523.05 Travel, Auto, Incl. Mileage																			\$750
523.07 Surveys and Reports																			\$200
523.08 Per Diem																			\$500
523.09 Project Supplies																			\$300
Mark up of 9.5% on all non-labor costs and subcontractors																			\$480
Direct expense subtotal																			\$5,530
Add contingency																			
Total price																			\$49,120
																			\$170,000

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-540**

A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT IN AN AMOUNT NOT TO EXCEED \$750,000 WITH BLACK AND VEATCH TO PROVIDE PELIMINARY ENGINEERING RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT.

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the of the MRWTP Phase 2 Expansion, and

WHEREAS, Council has authorized the City Manager to execute an agreement with MID relating to the advance funding of costs related to the MRWTP Phase 2 Expansion, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in MRWTP Phase 2 Expansion, and

WHEREAS, MID issued a request for proposals for engineering services for the MRWTP Phase 2 Expansion, and

WHEREAS, three proposals were received from engineering consulting firms in response to a Request for Proposals solicited by MID staff, and

WHEREAS, a task force was formed consisting of both City and MID staff, which reviewed each of the proposals for compliance with the project's scope of work and all three of the responding firms were interviewed on February 21, 2002 by the task force, and

WHEREAS, the task force selected Black and Veatch as the firm most qualified to provide engineering services for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff have reviewed the proposed scope of work for the proposed services, set forth in **Attachment "A"** attached hereto and incorporated herein by this reference, and agree they are appropriate for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff agree that it is appropriate to proceed with tasks 1.1 through 3.1.7 and tasks 3.1.10, 3.1.11, 3.1.15 and 3.1.18, as shown in Attachment "A", as well as the project management tasks necessary to perform the aforementioned tasks, and

WHEREAS, MID has negotiated a reasonable fee for the above services to be provided not to exceed \$750,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an agreement in an amount not to exceed \$750,000 with Black and Veatch to perform the above tasks related to the Phase 2 Expansion Of The Modesto Regional Water Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Technical Approach - Scope of Work
Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
Task 1 - Concept Development Phase - Design Studies				
1.1	Project Team	Notice to Proceed	Objective of Initial Workshop is 1) Verify Data Needs, 2) Confirm Schedule, 3) Establish Communication Tree, 4) Perform Initial Process Screening, 5) Verify Special Study Requirements, and 6) Develop Project Partnering Charter	Project Kickoff Meeting - Initial Partnering Charter Meeting
1.2	Project Team	Existing Information	Prepare Process Basis of Design Matrix. Confirm capacities of Existing Facilities.	Basis of Design Matrix.
1.3	Project Team	Conceptual Design Studies		
1.3.1	Civil, Mechanical Process or Process	District input, 1.2.	<p>Review existing process and evaluation existing and advanced technologies for the main treatment process. In addition to optimizing the existing process, consideration shall be given to dissolved air flotation (DAF). The following data will be provided by the District for Review under this task:</p> <ul style="list-style-type: none"> o District Filter Performance Reports o 5.13.01 – 5.20.01 o 11.03.01 – 11.18.01 o 12.03.01 – 12.10.01 o Modesto Regional WTP Pilot Plant Studies o Summaries of pilot plant runs during July-September, 2001. o Modesto Regional WTP Increased Filtration Protocol Report o Response from DHS to WTP Increased Filtration Protocol Report. o Modesto Regional WTP – Partnership Self Assessment o E-mail of requested tie-off/entry points for fall protection review. o E-mail of Maintenance Shop needs. o Fax copy of City of Modesto Domestic Well Data 1.01.92-1.01.02 o From Lenora Hill, dated 1.17.02. o Information provided in RFQ/RFP o Water Quality Data for past 3-5 years. From WTP Operations Data, in the form of Access Database and Excel Spreadsheets. o Recommendations Section from DHS Operating Permit for the Modesto Domestic Water o O&M Staff Records of Electrical Wiring Changes made since Phase I went into commerce 	Technical Memorandum Number 1. TM-1
1.3.2	Civil, Mechanical Process or Process	District input, 1.2.	<p>Review existing ozone and sodium hypochlorite feed systems and evaluate process and application. Included in the technical memorandum will be methodologies for expansion including in-line ozone injection, pre- and/ozone intermediate ozone, ozone retrofit technologies (LOX vs: air feed, diffusers, baffling and other short circuiting such as drains), and strategies for reducing off-gassing, and improving sampling. An evaluation of two-stage primary disinfection using ozone (pre-) and post filtration UV-light will also be performed. Optional scope item will be to employ Computational Fluid Dynamics (CFD) for design of baffling for the ozone contact basin.</p>	Technical Memorandum Number 2. TM-2

Attachment A-1

Technical Approach - Scope of Work				
Project Workflow Model Task Descriptions				
Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
1.3.3	Civil, Mechanical Process or Process	District input, 1.2.	Review existing process and evaluation alternatives for improving wash water recovery and treatment performance. Design basis will incorporate addition of filter-to-waste to the recovery system (Water Management Basin). Evaluations will include (separating wastes by quality) process enhancement and conversion to different thickening/separation technologies such as inclined plate settlers, membranes, dissolved air flotation, and ballasted floc sedimentation (Acti-flo), or enhancement of existing thickener. This task also provides for recommendations to convert existing solids storage lagoons to solids drying beds.	Technical Memorandum Number 3. TM-3
1.4.1	Civil, Mechanical Process or Process	District input, 1.3.1 through 1.3.3	Prepare Draft Conceptual Design Report. Report includes Conceptual Level (10-Percent Design) Cost Opinion.	Draft Report
1.4.2		District, City and QA/QC Comments	Incorporate Review Comments	Review Comment Matrix
1.4.3		1.4.1, 1.4.2	Prepare Executive Summary	Executive Summary
1.4.4		1.4.2	Submit 50 Copies of Final Report, 50 extra Executive Summary copies, and 2 CD-Rom Electronic Copies	Final Report
1.5		Additional Studies	This subtask provides for a reserve fund to perform additional analysis as requested in order to expedite the Conceptual Design, This could include scope and procure documents for special pilot studies, if desired.	
Task 2.0 - Preliminary Design-Pre-design Studies				
2.0.1	Civil, Mechanical Process or Process	District input, 1.2.	Review all existing liquid chemical feed systems and confirm basis of design for Phase II needs. Evaluate existing lime/carbon dioxide system and evaluate alternatives to optimize the system for improved operation. Evaluate other stabilization alternatives and provide justification for retaining lime/carbon dioxide. Prepare life-cycle cost comparison for improved hydrated lime/mixing system to that of a slaked Tekkem system. Make final recommendations for implementation.	Technical Memorandum Number 4. TM-4
2.0.2	Civil, Mechanical Process or Process	District input, 1.2.	Evaluate and recommend alternatives for increasing WTP to 60 mgd. Consider alternatives for future flows above 60mgd. Identify hydraulic limitations in existing Phase I unit processes and make conceptual recommendations for possible improvements to increase hydraulic capacity.	Technical Memorandum Number 5. TM-5
2.0.3	Civil, Mechanical Process or Process	District input, 1.2.	Evaluate alternatives for maximizing transmission system capacity. This evaluation includes the pump station at the treatment plant site and additional pumping unit at the TRPS site. Optional Scope would be to consider hydraulic base model beyond the TRPS site (distribution side) or improvements necessary to provide service to Empire, CA.	Technical Memorandum Number 6. TM-6
2.0.4	I&C	District input, 1.2.	Evaluate and recommend modifications to update the WTP Control System. Scope will include inclusion of monitoring/surveillance requirements provided under parallel effort by the District. An Audit for security or threat assessment is not included in this Scope of Work.	Technical Memorandum Number 7. TM-7

Technical Approach - Scope of Work
Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
2.0.5	Electrical	District input, 1.2.	Evaluate the impact of Phase II power needs on the existing power supply. Provide Phase II and other anticipated future electrical loads (such as UV-light disinfection) to the District to assist the District in the evaluation of the need for new District Substation. Evaluate existing standby generator and PCS UPS capacity and make recommendations for Phase II needs.	Technical Memorandum Number 8. TM-8
2.0.6	Civil, Mechanical Process or Process	District input, 1.2. Information from other major utilities in California. DHS Staffing Requirements	Compile staffing information for other major utilities. Prepare TM on staffing needs by job task.	Technical Memorandum Number 9. TM-9
2.0.7	Process, Project Engineer	District input, 1.2.	<p>Provide Oversight and Evaluation of the results from Filter Surveillance, performed by District Staff and an independent testing firm, in accordance with AWWARF Filter O&M recommended procedures, including the following:</p> <ul style="list-style-type: none"> a) A visual inspection of all filters including interior wall cleanliness, condition of filter box trough and valves. b) Provide photographs filters and adjacent areas before and after surveillance. c) Disinfect all materials, equipment and personal protective equipment that will be in direct contact with the media surface immediately prior to each contact with the media. These will include but not be limited to platforms to walk on the media surface, ladders, core samplers and boots. d) Inspect and sample for mudballs e) Visual inspection for media cracks, mounding and depressions f) Check and calculate filter bed (media) expansion g) Perform surface mapping of support gravel bed and report any migration h) Check freeboard measurements i) Record anthracite levels and estimate loss of media j) Take core samples in accordance with ANSI/AWWA B100-96 and ASTM D75 before a k) Observe backwash for air scour pattern, patterns and media boils. l) Composite and reduce the sample size (in accordance to ASTM C70) of the core sample m) Check the troughs to determine if they are level n) Perform backwash turbidity profile o) Perform floc retention analysis according to the guidelines described in the AWWARF p) Perform acid solubility tests on media in accordance with ANSI/AWWA B100-96 q) Perform sieve analysis on media for uniformity coefficient and effective size in accorda r) Perform microscopic evaluation of media for shape, pore size and cleanliness <p>Provide host employer with a complete report on the entire findings of the inspection.</p>	Workshop with Staff and Letter Report Summarizing Evaluation.
2.0.8	All	2.0.1 Through 2.0.7	Based on results of TMs developed under this Phase, Revise and publish revised Preliminary Study as Complete Design Report	Design Report

Attachment A-3

Technical Approach - Scope of Work				
Project Workflow Model Task Descriptions				
Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
Task 2.1 - Preliminary Design-Process Design				
2.1.1	Process or Civil	Treatment Objectives, Loads & Flows, Regulatory Agency Requirements, District Requirements, permit requirements, design criteria, characteristics, and capacities.	Finalize Loads & Flows. Confirm process loads, flows and other parameters needed to effectively model the process and determine major process equipment sizes and ratings.	Conceptual design, preliminary hydraulic profile, process unit types and sizes; conceptual site arrangement; flows and loads list.
2.1.2	Process or Civil	Process Parameters necessary to run the process designer (2.1.1)	Run Process Model. Run the Cygnet Process Designer to determine design parameters for each items of process equipment. D8	Information necessary to select the number of units for parallel process units, their physical size, and hydraulic capacity.
2.1.3	Process or Civil	Process Parameters necessary to run the process designer (2.1.1) (2.1.2) Authorization to begin work from Project Manager. Permit Requirements, design criteria, raw water characteristics, plant capacity and existing plant information from District	Select No. of Units and Size. Based on process needs and basic understanding of site restrictions, select the number of units required to meet process requirements and determine their physical size and hydraulic capacity.	Initiate project equipment list by listing of all major process elements, including quantity, size, and capacity.
2.1.4	Civil	Concept Requirements & Units and Size (2.1.3) Input to establish square footage needs of buildings.	Develop Conceptual Site Layout. Block layout of site using Concept Requirements and Process information.	Conceptual site layout for discussing any physical limitations on the Process Design.
2.1.5	Construction Group	Concept Phase Documents, Process Flow Diagram (2.1.6), Size and Quantity of Process (2.1.3), Conceptual Layout (2.1.4)	Prepare Conceptual Cost Estimate. Develop conceptual opinion of probable cost for all disciplines.	Conceptual opinion of probable cost.
2.1.6	Civil, Mechanical Process or Process	Quantity, physical size and hydraulic capacity of major process elements.	Develop Process Flow Diagram (PFD). Lay out the major interconnecting piping among process units in a schematic fashion. (Piping is not sized nor routed on the site in this task.)	Basic process flow diagram, showing process units and interconnecting piping, for use as basis of P&ID
2.1.7.1	Project Engineer, Structural Engineer, Safety Engineer	Existing Information	Safety Recommendations. A B&V Safety Professional and MID Project Engineer will Meet with MID O & M staff to review safety procedures and observe existing confined space fall protection, entry, and egress systems/facilities currently in place. B&V will observe the facilities that are representative of those indicated on the list provided to B&V March 11, 2002. B&V will base the assessment and subsequent recommendations on California General Industry Orders, Title 8, Subchapter 7 as follows: Article 6. Powered Platforms and Equipment for Building Maintenance Article 108. Confined Spaces, and Subchapter 4, Construction Safety Orders, Article 24. Fall Protection	Site visit and initial recommendations for improvements in accessibility for existing facilities.

Technical Approach - Scope of Work
Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
2.1.7.2	Project Engineer, Structural Engineer, Safety Engineer	2.1.7.1	Guidance Document and Report. Based on the observations noted over the course of the assessment, B&V will prepare a brief report and guidance document for MID and B&V Structural and Project Engineers for reference during design of improvements to the Treatment Plant Facilities during the expansion project.	The report and guidance document will include digital photographs with explanations of proposed improvements.
Task 2.2 - Preliminary Design-Schematic Design				
2.2.1	Civil & Mechanical Process	Schematic representation of process flow. (2.1.6)	Select Valve Location and Function. Determine where valves should be located to provide adequate process control and isolation. Determine essential function and type of valves (isolation, flow control, etc.) and locate on PFD	PFD with valves shown in schematic format, list of valves and their essential functions.
2.2.2	Civil, I&C, & Mechanical Process	Basic PFD.(2.1.6)	Indicate Primary I&C Elements. Locate primary instrumentation elements for flow, level, and pressure measurements needed for process control and monitoring	PFD with primary elements shown.
2.2.3	Civil, I&C & Mechanical Process	PFD with valves and primary elements shown. (2.2.1, 2.2.2)	Determine Control Strategy. Determine basic process and equipment control needs for process equipment. Establish requirements for automation and remote control based on District requirements.	Definition of control needs for use in developing the control system block diagram
2.2.4	I&C	Latitude and Longitude and Elevations for Facilities	NOT USED.	
2.2.5	Geotech, Civil	Project Management – Initiate Preliminary Design. Obtain any previous Geotechnical Reports from the District. Obtain Conceptual Site Layout, Regulatory Agency Requirements, Structural Code Requirements, and Subcontract Geotechnical Investigations	Geotechnical Study. Black & Veatch, through subcontract, will provide a geotechnical study for the expansion of the Modesto Regional Water Treatment Plant. The study will include the following: A) Field Reconnaissance including 3 to 4 borings at the proposed WTP expansion location and a survey of sand thickness at the existing solids storage lagoons. B) Laboratory Testing to obtain/confirm engineering properties of materials, C) Engineering Analysis and Evaluations, and D) Preparation of a Geotechnical Report.	Geotechnical Study. 10 Bound Copies of Report, plus camera ready document.
2.2.6	Civil	Obtain site survey from District, if available or secure subcontract to obtain site survey services as required, Conceptual Site Layout.	Perform Site Survey. Black & Veatch, through subcontract., will provide the following: A) Topographic reconnaissance survey of the WTP site for confirmation of the existing grades of the approximately 4.5-acre site proposed for the construction of the expansion. B) Field survey to identify horizontal and vertical locations of the connection points of the utilities to be extended. C) Perform topographic surveys to field place panels for aerial photography. D) Procure a rectified orthographic photo at a scale of 1 inch = 20 feet.	Site survey Topographic Base Map for Final Design Drawings.
2.2.7	Civil & Mechanical Process	Process schematic/PFD with valve shown (2.1.6, 2.2.1); hydraulic ratings of process equipment (2.1.3)	Run Preliminary Hydraulics, Size Major Process Pumps, Piping, and Valves. Perform preliminary hydraulic calculations on the process flow schematic to establish conservative sizing for piping, pumps and valves.	Pipe size, pump size, and valve size information for equipment lists. Hydraulic capacity and hydraulic profile.
2.2.8	I&C	PFD with valves and primary elements shown (2.2.1, 2.2.2), Control strategy definition (2.2.3)	Develop Control System Block Diagram. Develop the control system block diagram showing preliminary arrangement of PLCs, RTUs, computers, and other major control system components. Identify gross or estimated I/O counts for the system.	Control system block diagram and preliminary I/O count

Attachment A-5

Technical Approach - Scope of Work				
Project Workflow Model Task Descriptions				
Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
2.2.9	I&C	Basis of Design Memo PFD with I&C Elements District Preferences	Perform Preliminary Computer Network Design. Develop the preliminary local area network design showing: media types, switches, multiplexers, hubs, termination cabinets, and other LAN components.	Basic Computer Network Design
2.2.10	Civil & Mechanical Process	Process design criteria for subsystems to support primary process. (2.1.3 & 2.1.6)	Select Equipment for Subsystems. Select system equipment for subsystems (chemical feed, nonpotable water, etc.)	Listing of subsystem equipment, including quantity, equipment size, and applicable ratings.
2.2.11	Civil & Geotech, Geotechnical Consultant	Geotechnical Investigation Plan, Conceptual Site Layout, and Grading. (2.1.4)	Obtain Preliminary Foundation Recommendations. Obtain preliminary soils information and investigate potential foundation systems.	Preliminary foundation recommendations from Geotechnical Consultant.
2.2.12	Civil, I&C, Mechanical Process	Piping layout and selection (2.2.2, 2.2.10), location of primary elements, control strategy information (2.2.3), and preliminary pipe, valve and pump sizes (2.2.7).	Produce Preliminary Process and Sub-Process P&IDs. Produce P&IDs illustrating process flow with types and quantities of process elements, preliminary line sizing, primary element functions, I/O connections, and general control strategy.	Produce P&ID for major system and for subsystems with initial I/O connections.
2.2.13	Civil, I&C & Mechanical Process	Number and size of process units (2.1.3); Number and size of subsystem units (2.2.10); valve and primary element information (2.2.2, 2.2.-1); Block diagrams/schematic design information for I&C systems (2.2.8)	Generate Equipment Lists. Generate lists of all major process equipment, subsystem components, including related valves, primary elements, and control system components.	Update equipment lists for design development deliverable; information for SPEC data sheets.
2.2.14	Civil	District requirements and objectives from Design Definition information	Produce Front-end Documents or Terms or Conditions. Develop Adopt the District Construction Contract front-end documents or contract terms and conditions.	Front end documents or contract terms and conditions ready for District review. Provide feedback to the District on Front Documents and propose text for Supplemental Conditions Section.
2.2.15	Civil, I&C & Mechanical Process	P&ID drawings illustrating project scope and design basis. (2.2.12); Equipment List. (2.2.13); Completed SPEC data sheets. (2.2.16)	Prepare Final Control Strategy. Finalize process and equipment control needs for process equipment. Establish requirements for automation and remote control based on District requirements.	Definition of control needs for use in developing the electrical schematics, major specifications, and minor specifications.
2.2.16	Civil, I&C & Mechanical Process	Number and size of process units (2.1.3); Number and size of subsystem units (2.2.10); valve and primary element information (2.2.2, 2.2.3); Block diagrams/schematic design information I&C systems (2.2.11)	Define and Distribute Preliminary Process Equipment Information. Identify and distribute minimum required information about all equipment and systems defined in this phase. Information shall be the minimum required for other design groups to proceed with their scheduled design activities through the next project phase.	System and equipment data and information.

Technical Approach - Scope of Work				
Project Workflow Model Task Descriptions				
Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
2.2.17	Architect	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Prepare Architectural Program. Program includes gross building space requirements; room/space listing, special requirements, height, and usage of each space; District's architectural expectations and visual statement. Describe aesthetic requirements. General description of building systems and materials. Site impacts are described. Building code requirements and handicapped accessibility requirements included.	Architectural Program. Written text with tabulated space listing. Architectural renderings, presentations, or 3D modeling efforts may be required at this time to support District decision-making during review of the Basis of Design Memo.
2.2.18	I&C	General design criteria, District requirements	Prepare Preliminary Software Control Descriptions.	Level of Automation for process equipment
2.2.19	I&C	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write I&C Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.2.20	Electrical	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write Electrical Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.2.21	Architect	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write Architectural Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.2.22	Structural	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write Structural Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.2.23	Mechanical Process, Civil	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write Mechanical Process Text for Basis of Design Memo. Standard Discipline text and Chemical Feed text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.2.24	Civil	General design criteria, District requirements, and budgetary expectations (Concept Phase)	Write Project/Civil Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.	Basis of Design Memo
2.3	All	Basis of Design for each Discipline (2.2.19, 2.2.20, 2.2.21, 2.2.22, 2.2.23, and 2.2.24).	Plan Review Initiation. Attend a meeting at District offices and provide 10 copies of basis of design information for independent plan check review team.	Plan Check Review
2.4		Additional Studies	This subtask provides for a reserve fund to perform additional analysis as requested in order to expedite the Preliminary Design.	District Contingency Fund for Preliminary Design Phase.
Task 3.1. - Detailed Design-Spatial Design Level 1				
3.1.1	Civil & Architect	Equipment Lists and SPEC Data Sheets which include major process equipment (2.2.12, 2.2.16) existing site information (2.2.11).	Locate Major Process Structures on Site. Locate and arrange major process elements and buildings to produce a general arrangement site plan.	Preliminary site plan showing location of major process equipment not housed in buildings.
3.1.2	Civil, Mechanical Process & Structural	Equipment Lists which include major process equipment and SPEC data sheets (2.2.12, 2.2.13, 2.2.16)	Establish Space Allocations for Major Process Equipment, Subprocess Equipment, Piping and Basins. Establish space requirements for major process elements on the site and within planned structures & determine major interconnections of process piping.	Space allocation needs and general arrangements for major process equipment, tanks, basins, and chemical storage. Sketch plans. Concepts for basin and tank construction.

Technical Approach - Scope of Work
Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
3.1.3	Architect	Architectural program and space allocations for major equipment. (2.2.17)	Establish Space Allocations for Personnel. Establish space requirements for personnel spaces within planned structures, including egress and accessibility requirements. Identify concepts for roof drainage and building construction.	Arrangements for personnel spaces corridors, and exits. Stick plans. Concepts for roof drainage and building construction.
3.1.4	Civil	Location and arrangement of major process elements on the site and within buildings (3.1.1, 3.1.2)	Identify Major Points of Connection Between Processes and Buildings. Establish the orientation of buildings and process equipment to determine the location and routing of major piping.	Space requirements and routing for major piping. Location of piping interfaces to buildings.
3.1.5	Mechanical Building and Electrical	Equipment Lists and SPEC data sheets which include major process equipment (2.2.13, 2.2.16); Allocation of space for Process Equipment & Personnel (3.1.2, 3.1.3), Process Text for Basis of Design memo.	Estimate Space Allocations for Electrical/Mechanical Equipment. Consult on space requirements for major electrical and mechanical building systems/HVAC, plumbing, fire protection equipment within buildings and on the site.	Preliminary space allocation needs for mechanical building systems and electrical equipment on the site and within structures.
3.1.6	I&C	Preliminary Floor Plans (3.1.6)	Identify Space Needs for Control Equipment. Use catalogs and similar projects to derive spatial needs for control equipment; such as cabinets, control panels, etc.	Preliminary space allocation needs for control equipment
3.1.7	Civil, Mechanical Process, Structural Architect, Electrical & Mechanical Building	Major Process Structures (3.1.1) P&ID (2.2.12) Equipment List (2.2.13 & 2.2.16) Space Allocation for Process Equipment, Personnel, Utilities, & Piping (3.1.1, 3.1.2, 3.1.3, 3.1.5, 3.1.6) Structural Design Criteria (3.1.8)	Develop Preliminary Floor Plans. Hold workshop to develop preliminary plans (workshop is recommended, but not mandatory).	Preliminary floor plans.
3.1.8	Structural	Established, Code-based, Requirements for Structural Design Criteria (2.2.17) Space Allocation for Utilities, Personnel, Basis of Design memo (2.2.17) and (2.2.18) Preliminary Floor Plans (3.1.7)	Establish Structural Design Criteria.	Structural design criteria
3.1.9	Civil	Major Process Structures (3.1.1) P&ID (2.2.12) Equipment List (2.2.13 & 2.2.16) Space Allocation for Process Equipment, Personnel, Utilities, & Piping (3.1.1, 3.1.2, 3.1.3, 3.1.5, 3.1.6) Structural Design Criteria (3.1.8)	Identify Major Process Points Within Structures. Establish location and location of major process elements (generally including pipe runs) within buildings, housing process equipment and associated with the existing buildings and process layout.	Space requirements and routing of major piping within structures
3.1.10	Civil, Electrical, Architect, Mechanical Building	Basis of Design memo Equipment lists and Data Sheets (2.2.13, 2.2.16). Space allocations for major process equipment, buildings and personnel areas (3.1.2, 3.1.3) hazardous materials and building materials.	Perform Building Space Code Review. Determine the classification rating (if any) for hazardous areas within buildings and surrounding process elements in accordance with NFPA 820 or other applicable codes.	Classification ratings
3.1.11	Civil, Electrical, Architect, Mechanical Building, Mechanical Process	Building space classifications for personnel and NFPA (3.1.3 & 3.1.10)	Prepare Code Classification Table. Completion of Code Classification Table. A project team workshop is recommended but not required.	Code Classification Table

Technical Approach - Scope of Work Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
3.1.12	Mechanical Engineering	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Mechanical Building Systems Design. Establish basic layout of mechanical building systems including HVAC, process systems, and fire alarm systems. Develop preliminary mechanical equipment layout for major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary mechanical building systems design including descriptions of mechanical building systems, HVAC, fire alarm systems, and fire alarm systems. Determine preliminary mechanical building systems including HVAC, process systems, and fire alarm systems.
3.1.13	Electrical & I&C	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Electrical and I&C Equipment Layout. Establish basic layout of electrical and I&C equipment including power distribution, control systems, and fire alarm systems. Develop preliminary electrical and control equipment layout for major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary electrical and control equipment layout including descriptions of electrical and control equipment, power distribution, control systems, and fire alarm systems.
3.1.14	Civil & Structural	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Site Layout, Roads, and Grading. Establish basic site layout, showing location of all major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary site layout showing process structures, buildings, roads, and gross contours.
3.1.15	Electrical & I&C	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Mechanical Building Systems Design. Establish basic layout of mechanical building systems including HVAC, process systems, and fire alarm systems. Develop preliminary mechanical equipment layout for major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary mechanical building systems design including descriptions of mechanical building systems, HVAC, fire alarm systems, and fire alarm systems.
3.1.16	Civil & Structural	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Site Layout, Roads, and Grading. Establish basic site layout, showing location of all major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary site layout showing process structures, buildings, roads, and gross contours.
3.1.17	Structural Engineering	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Structural Design. Establish basic structural design for major process elements, buildings, and roads. Determine preliminary structural design requirements, including major fills and cuts.	Preliminary structural design showing process structures, buildings, roads, and gross contours.
3.1.18	Civil	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Site Layout, Roads, and Grading. Establish basic site layout, showing location of all major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary site layout showing process structures, buildings, roads, and gross contours.
3.1.19	Civil	Finalized process flow diagrams, process descriptions, and equipment lists; Preliminary mechanical equipment layout (3.1.11); Preliminary site plan (3.1.1); Preliminary Geotechnical report (3.1.3); Preliminary Electrical and I&C Equipment layout (3.1.15).	Develop Preliminary Site Layout, Roads, and Grading. Establish basic site layout, showing location of all major process elements, buildings, and roads. Determine preliminary site grading requirements, including major fills and cuts.	Preliminary site layout showing process structures, buildings, roads, and gross contours.

Attachment A-9

Technical Approach - Scope of Work Project Workflow Model Task Descriptions

Task No.	Primary Discipline (s)	Inputs (Predecessor Task)	Task/Activity	Outputs
1.1	Electrical	Technical Specifications	Review Specifications for consistency with Code/Standards, Report/Code requirements	Tasklist, QA/QC Plan, Specifications
1.2	Electrical	Electrical Power Plans	Complete Electrical Panel, Distribution, and Control Schematics, including wiring diagrams, panel drawings and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.3	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Sizing, including Distribution, Control and Control Panel Sizing	Electrical specifications, material quantities/schedules, and coordination
1.4	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.5	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.6	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.7	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.8	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.9	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.10	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.11	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.12	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.13	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.14	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.15	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.16	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.17	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.18	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.19	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.20	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.21	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.22	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.23	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.24	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.25	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.26	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.27	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.28	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications
1.29	Electrical	Electrical Power Panel Sizing	Complete Electrical Panel Specifications, including panel drawings, wiring diagrams, and electrical equipment layouts	Technical specifications, material quantities/schedules, and coordination
1.30	Electrical	Electrical Power Panel Sizing	Coordinate wiring, panel, and control wiring, with process equipment vendor, electrical equipment manufacturer, and control panel manufacturer	Tasklist, QA/QC Plan, Specifications

Task 4 - Project Management/Coordination/Meetings

4.1	Project Manager	Contract and District.	Prepare Project Workplan, Includes general requirements, Organization Charts, Project Communications, Document Filing Codes, Schedule, and QA/AC Plan.	Project Workplan
4.2	Project Manager and Project Accountant	Contract and BISNET.	Prepare Monthly Invoice and Narrative Progress Report	Monthly Invoice
4.3	Project Team	District and Contract	Attend meetings, prepare and make presentations, and prepare meeting agenda and minutes for distribution.	Meeting Agenda and Minutes, Handouts for presentations.
4.4	QA/QC Team	1.3.1 thru 1.3.9, 1.4.1, 2.2.24, 3.3.19, 3.4.17	Review and provide feed back on all technical memoranda, reports, and design documents.	QA/QC on all documents
4.5	Project Team	Project Team.	Set-up through third party provider, a web-based collaborative system for project management, communication, and scheduling. Service will be subscription service by eRoom.com	Collaborative Website for Project Communication Through Design Phase. Budget for CPS captured separately.
4.6	Project Team	District	Additional Meetings or Presentations	

Task 5 - Construction Administration/Construction/Meetings

5.1	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.2	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.3	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.4	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.5	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.6	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.7	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.8	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.9	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.10	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.11	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.12	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.13	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.14	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.15	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.16	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.17	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.18	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.19	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings
5.20	Project Manager	Contract and District	Coordinate and Administer Construction/Meetings	Construction Administration/Construction/Meetings

Attachment A-10

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-541**

**A RESOLUTION EXTENDING THE TERM OF debee loyd AS THE POET
LAUREATE OF THE CITY OF MODESTO THROUGH JUNE 30, 2004.**

WHEREAS, on July 13, 1993, by Resolution No. 93-412, the City Council established a non-salaried honorary position to be known as “The Poet Laureate of the City of Modesto”, and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, the purpose of a Poet Laureate is to present original poems at various official occasions, and

WHEREAS, a copy of the City of Modesto Policy regarding said non-salaried honorary Poet Laureate position is on file in the office of the City Clerk, and

WHEREAS, debee loyd was appointed as “Poet Laureate of the City of Modesto” by the City Council on July 25, 2000 by Resolution No. 2000-384, and

WHEREAS, the Culture Commission met on August 18, 2003 and concluded that debee loyd has appropriately fulfilled her obligations as Poet Laureate over the previous three years, and

WHEREAS, the Culture Commission further recommended the extension of debee loyd as the Poet Laureate of the City of Modesto through June 30, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the extension of the term of debee loyd as the Poet Laureate of the City of Modesto through June 30, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-542**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT
WITH TOWN HALL SERVICES, IN THE AMOUNT OF \$21,969.01 FOR
ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME**

WHEREAS, on May 28, 2002, the City Council approved a professional services agreement with Town Hall Services to prepare a Capital Facilities Fee Study Update, and

WHEREAS, following completion of their original tasks, Town Hall Services was asked by the project manager to attend a number of meetings and provide additional input, and

WHEREAS, Town Hall Services has requested an additional fee of \$21,969.01 to cover the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with Town Hall Services, in the amount of \$21,969.01, for additional services related to the Capital Facilities Fee Study Update.

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 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 543**

A RESOLUTION APPROVING THE AWARD OF A CONTRACT IN THE AMOUNT OF \$59,174 TO YOUNG ELECTRIC SIGN COMPANY TO DESIGN, MANUFACTURE AND INSTALL THE MARQUEE SIGN AT MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the City of Modesto accepted proposals on March 11, 2003 from sign manufacturers to design, manufacture, and install an illuminated airport marquee sign at the corner of Mitchell Road and Tenaya Drive, and

WHEREAS, the sign will be located adjacent to the airport passenger terminal, and will provide good advertisement of the airport and its services, and

WHEREAS, sign manufacturers were requested to show their creativity in their proposals and provide the City with a cost to design, manufacture and install the sign, and

WHEREAS, the City provided the sign manufacturers with the following elements to include in the design: (1) the name of the airport; (2) its year of establishment; and (3) the airport logo, and

WHEREAS, three proposals were received from sign manufacturers, and of those three, two were considered acceptable, and

WHEREAS, the Airport Advisory Committee selected two members to serve on a subcommittee with the Airport Manager to make a recommendation to the City Council, and

WHEREAS, the Council Economic Development Committee considered this recommendation at their May 12, 2003 meeting and unanimously approved the selection of Young Electric Sign Company, and

WHEREAS, the recommended proposal was over the budgeted amount of the original project budget of \$50,000, and

WHEREAS, this \$50,000 was carried over to Fiscal Year 2003/04 and the Council Finance Committee approved an additional \$10,000 in the Airport's Operating Budget in FY 2003/04 in order to fully fund this project, and

WHEREAS, the Council approved the budget increase to \$60,000 for this project in Fiscal Year 2003/04 at their meeting on August 6, 2003,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves awarding a contract in the amount of \$59,174 to Young Electric Sign Company to design, manufacture and install the airport marquee sign.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the contract on behalf 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 October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by: Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-544**

A RESOLUTION ACCEPTING THE WORK BY A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION, FOR THE "PELANDALE AVENUE INTERCHANGE WIDENING AT STATE HWY 99" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$749,246 PER THE CONTRACT.

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Pelandale Avenue Interchange Widening at State Hwy 99" has been completed, in accordance with the contract agreement dated August 14, 2001.

NOW, THEREFORE, BE IT RESOLVED that the "Pelandale Avenue Interchange Widening at State Hwy 99" project be accepted from said contractor, A. Teichert & Son, Inc., dba Teichert Construction, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$749,246 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-545**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$20,099,999.75
CONTRACT WITH MCM CONSTRUCTION, INC., FOR THE PROJECT
TITLED "9th STREET BRIDGE REPLACEMENT," AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the bids received for the 9TH STREET BRIDGE REPLACEMENT project were opened at 11:00 a.m. on September 30, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$20,099,999.75 received from MCM Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to MCM Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$20,099,999.75, and hereby awards MCM Construction, Inc., the contract titled "9TH STREET BRIDGE 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 14th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-547**

A RESOLUTION AUTHORIZING THE SOLE SOURCE PURCHASE OF A USED 40-TON, TRUCK-MOUNTED CRANE FROM FORST CRANE WORKS, INC. FOR A TOTAL ESTIMATED COST OF \$267,900.63

WHEREAS, the Water Quality Control Division is in need of a new 40-Ton, Truck-Mounted Crane for maintenance operations in the City, and

WHEREAS, the current equipment is at the end of its useful life, is frequently down for repairs, and is in need of replacement with a larger unit, and

WHEREAS, the City has an opportunity to purchase a used 40-ton-truck-mounted crane, and

WHEREAS, this used, 40-ton, truck-mounted crane will meet the maintenance and service needs of the Wastewater Treatment Plant maintenance crews, and

WHEREAS, the used, recommended 40-ton, truck-mounted crane will offer a full 20-year service life, and

WHEREAS, the same truck purchased new costs \$307,746.75, and

WHEREAS, this used truck is in like-new condition and can be purchased for \$267,900.63, offering the city a savings of \$39,846.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sole source purchase of a used 40-ton, truck-mounted crane from Forst Crane Works Inc., Phoenix, Arizona at an estimated cost of \$267,900.63.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-548**

A RESOLUTION APPROVING STAFF'S RECOMMENDATION ON FUTURE USE OF SOCIAL SECURITY ADMINISTRATION BUILDING AS OFFICES, MEETING ROOMS, AND STORAGE SPACE FOR VARIOUS CITY ACTIVITIES AND AUTHORIZING STAFF TO SUBMIT A "LETTER OF INTEREST" TO OBTAIN NECESSARY APPLICATION INSTRUCTIONS FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) FOR THE SURPLUS OF THE SOCIAL SECURITY ADMINISTRATION BUILDING LOCATED AT 1230 12TH STREET.

WHEREAS, on August 29, 2003, the City of Modesto received a "Notice of Determination," which indicated the Social Security Administration (SSA) Building, located at 1230 12th Street, had been determined to be surplus government property, and

WHEREAS, the notice, issued by the U.S. General Services Administration 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 programs or services for homeless, and

WHEREAS, the property consists of a .62-acre corner lot improved with an 11,957-square-foot office building and 24 paved outdoor parking spaces, with the zoning designation as C-2 (general commercial), and

WHEREAS, the building is handicapped accessible, and the City bus service stops in front of the building (Max Bus # 30), and

WHEREAS, although the building is in good condition, it does not meet current seismic standards; the cost estimate for both structural and nonstructural seismic retrofit is \$58,860; the mechanical and electrical system and the roof are the major items requiring replacement and repair in the near future, the repair alteration cost estimate for continued operation is \$303,000 for site repair, mechanical and electrical work, and

WHEREAS, asbestos-containing material (ACM) in the form of wallboard joint compound is located throughout the building in the walls and ceilings; the ACM is in good condition and is non-friable, and

WHEREAS, the building also contains lead-base paint; the preliminary estimate to rehabilitate this building is approximately \$400,000, and

WHEREAS, the SSA presently occupies the building and is planning to move to a new facility in January 2004, and

WHEREAS, currently, SSA serves several hundred people per day on an ongoing basis, and

WHEREAS, staff proposes that the building currently housing the SSA could be utilized for several necessary purposes, including:

- Offices for the Restorative Police Function and Bicycle Officers. (The Restorative Policing Program is designed to address adults with mental illness or other disabilities that are at high risk of being repeatedly victimized or arrested for activities related to their disability),
- Offices for the “Information and Referral” agencies involved in the Stanislaus Housing and Support Services Collaborative which the City Council approved as the planning and coordinating body for homeless issues in Stanislaus County,
- Offices, storage, meeting space for the Recreation staff currently located at the Coldwell Office, and
- Storage and possible office sites for the Police Activities League (PAL) function,

and

WHEREAS, if the City's application request is approved, the City of Modesto and the Collaborative's agencies could work in coordination to rehabilitate this facility for the outlined uses, and

WHEREAS, it is expected that the Collaborative should be the agency to oversee their program portion of this facility, and a City team of employees will oversee the Recreation/PAL function,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves staff's recommendation for future use of the Social Security Administration Building.

BE IT FURTHER RESOLVED that staff is hereby authorized to submit a "Letter of Interest" to obtain necessary application instructions from the Department of Health and Human Services (HHS) for the surplus of the Social Security Administration Building located at 1230 12th Street.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Frohman

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-549**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A SPECIAL WEAPONS
AND TACTICS VEHICLE FOR POLICE SWAT OPERATIONS FOR A TOTAL
ESTIMATED COST OF \$214,825**

WHEREAS, the Police Department is in need of a new Special Weapons and Tactics vehicle for SWAT operations in the City, and

WHEREAS, the Police Department currently utilizes a converted, 21-year old armored car for its SWAT vehicle that was never intended to be a SWAT vehicle, has outlived its useful life, is prone to frequent failures and is in need of replacement, and

WHEREAS, the new, recommended replacement SWAT vehicle utilizes current technologies and is designed as a personnel transport vehicle, and

WHEREAS, this new SWAT vehicle will hold all SWAT equipment and can be used as a rescue vehicle in the event that a person or persons are trapped by gunfire, and

WHEREAS, recent national events dictate that we in Modesto need to be prepared to handle critical events and this SWAT vehicle will assist us for all types of critical events, and

WHEREAS, violence involving guns is on the rise and this SWAT vehicle will allow us to safely confront these problems, and

WHEREAS, this SWAT vehicle's life expectancy is anticipated to be twenty years, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action, and

WHEREAS, at its meeting of September 22, 2003 the Finance Committee also unanimously recommended this action, and

WHEREAS, pursuant to Modesto Municipal Code Section 8-3.204(d) the Purchasing Supervisor, in his or her discretion, has determined 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a Ballistic Engineered Armored Response/Rescue ("SWAT") Vehicle from Lenco Armored Vehicles at 61 Downing Industrial Park in Pittsfield, Massachusetts at a cost of \$214,825.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-550**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/04 BUDGET TO
TRANSFER FUNDS FROM THE FLEET FUND RESERVES TO FLEET
EQUIPMENT REPLACEMENT FOR THE PURCHASE OF A SPECIAL
WEAPONS AND TACTICS VEHICLE FOR POLICE SWAT OPERATIONS**

WHEREAS, the Police Department is in need of a new Special Weapons and Tactics vehicle for SWAT operations in the City, and

WHEREAS, the Police Department currently utilizes a converted, 21-year old armored car for its SWAT vehicle that was never intended to be a SWAT vehicle, has outlived its useful life, is prone to frequent failures and is in need of replacement, and

WHEREAS, the new, recommended replacement SWAT vehicle utilizes current technologies and is designed as a personnel transport vehicle, and

WHEREAS, the cost of said SWAT Vehicle is \$214,825.00, and

WHEREAS, the new SWAT vehicle's life is anticipated to be twenty years, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action, and

WHEREAS, at its meeting of September 22, 2003 the Finance Committee also recommended this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/04 Annual Budget is hereby amended as indicated below:

Appropriate:

To: 7200-480-5814-5700 \$214,825 Fleet Equipment Replacement

Revenue:

From: 7210-800-8000-8003 \$214,825 Fleet Fund Reserves

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 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-551**

**CONSIDER REJECTING ALL BIDS FOR RADIO AND COMMUNICATION
EQUIPMENT SERVICE AND REPAIR CONTRACT AND AUTHORIZING RE-
BIDDING THE SERVICES**

WHEREAS, the Fire, Operations and Maintenance and Police Departments have requested ongoing service and repair for their inventory of mobile and portable 2-way radios and communication equipment, and

WHEREAS, the Operations and Maintenance Department, Fleet Services Division manages and maintains the City's inventory of mobile radios, and

WHEREAS, the Fire Department manages and maintains their inventory of portable radios and radio equipment, and

WHEREAS, the Police Department manages and maintains their inventory of portable radios and the City's radio communications infrastructure, and

WHEREAS, in December 2002, Council approved Resolution No. 2002-610 authorizing the Purchasing Supervisor to formally solicit bids for mobile and portable 2-way radio and communication equipment service and repair for the Fire Operations Maintenance and Police Departments, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-13 for mobile and portable 2-way radio and communication equipment service and repair to five (5) vendors. Bids were opened on June 10, 2003. Of the five (5) vendors solicited, two (2) vendors chose to respond, and

WHEREAS, one of the requirements in the bid called for bidders to possess a C7 Low Voltage Systems Contractor's License, and

WHEREAS, of the two (2) respondents, only one (1) bidder, Delta Wireless Inc., had the required license, and

WHEREAS, the other bidder (Lagorio Communications), who does not have the C7 license, stated so in an e-mail prior to the bid opening and also stated that they were in the process of filing for the license with the California Contractors State License Board, and

WHEREAS, to allow for increased vendor inclusion, they were given approval to submit their bid with the C7 license application attached, and

WHEREAS, Lagorio also stated the C7 Contractors license has never been used in the wireless industry and really applies to contractors who do network cabling for computer solutions, and they along with another company who does not have this license have full Motorola dealerships with full warranty repair authorization from Motorola, and

WHEREAS, in further research, the California State License Board declares in California Code of Regulations Division 8, Title 16, Article 3, Classification for a C7 Low Voltage Systems Contractor License: A communication and low voltage contractor installs, services and maintains all types of communication and low voltage systems which are energy limited and do not exceed 91 volts. These systems include, but are not limited to, telephone systems, closed-circuit video systems, satellite dish antennas, instrumentation and temperature controls, and low voltage landscape lighting. Low voltage fire alarm systems are specifically not included in this section, and

WHEREAS, based on the scope of services bid and verbal confirmation from the State Contractors Licensing Board the decision was made, (pending Council approval) to

award to the only responsive bidder currently in possession of the required C7 license,
and

WHEREAS, intent to award letters were mailed on August 26, 2003, and

WHEREAS, on September 8, 2003 the Purchasing Supervisor received a formal
bid protest filed by a Mr. Steve Finch on behalf of Lagorio Communications, and

WHEREAS, Mr. Finch was protesting the C7 license requirement and the lack of
opportunity to protest the requirement, and

WHEREAS, on September 10, 2003 the Purchasing Supervisor responded to the
protest in writing, citing the State Contractors Licensing Board requirements as well as
the protest that Mr. Finch had filed, and

WHEREAS, in summary, the Purchasing Supervisor concluded that the process
was fair and the licensing requirement valid, and

WHEREAS, on September 17, 2003 Mr. Finch appealed the Purchasing
Supervisor's decision to the Deputy City Manager as prescribed in the City's protest
procedures, and

WHEREAS, the Deputy City Manager reviewed the appeal and rendered his
decision, and

WHEREAS, based on the documentation submitted to the Deputy City Manager,
his recommendation was to reject all bids and re-bid the Radio and Communication
Equipment Service and Repair contract with the inclusion of a C7 and/or C10 licensing
requirement and at the bid opening to have all bids read aloud noting that all bids are
conditional and subject to review and evaluation prior to award, and

WHEREAS, his decision was based on his feeling that the prospective bidder might have been confused by being allowed to submit a bid with a C7 license application as opposed to actually having the C7 license, and

WHEREAS, the decision of the Deputy City Manager, after reviewing the protest/appeal documents submitted by the appellant, Lagorio Communications, was to reject all bids and re-bid for services. In addition, page number 3 of the bid states that: The City reserves the right to reject any or all bids or to waive any informalities or minor irregularities in a bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the bids received for Mobile and Portable 2-Way Radio and Communication Equipment Service and Repair, Bid No. 0203-13, opened in the City Clerk's office on June 10, 2003.

BE IT FURTHER RESOLVED that a Request for Proposal for a Mobile and Portable 2-Way Radio and Communication Equipment Service and Repair contract with the inclusion of a C7 and/or C10 licensing requirement, for an estimated annual amount of \$45,425.00, for a three (3) year contract, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, 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: Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Conrad, Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-552**

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(562). (SILVEIRA)

WHEREAS, a verified application for an amendment to Section 7-3-9 of the Zoning Map was filed by Mary Silveira on March 31, 2003, to reclassify from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562), to allow a 14 unit townhouse-style apartment complex, property located on the west side of Carver Road, opposite Montclair Drive, described as follows:

R-1 to P-D(562)

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 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Parcel "1" as per Parcel Map filed on August 31, 1979 in Book 29 of Parcel Maps, at Page 88, Stanislaus County Records;

Also including the westerly half of Carver Road, all being immediately adjacent to the above-described property.

WHEREAS, after a public hearing held on September 8, 2003, 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. 2003-56, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed townhouse-style apartment complex is consistent with the current General Plan land use designation for the site.
2. The townhouse-style apartment complex is compatible with the adjacent land uses along Carver Road.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 14, 2003, 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, and

WHEREAS, after said public hearing the Council found and determined that the application of Mary Silveira 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. 2003-56 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3325-C.S. on the 14th day of October, 2003, reclassifying the above-described property from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562).

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(562), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Carver Road Multi-Family" 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 Neighborhoods Director. Sequoia Sempervirens, "Soquel or "Aptos Blue," 24" box size at 12' on-center spacing, shall be installed along the south property line as indicated on the stamped approved plan and required by the Parks, Recreation and Neighborhoods Director. Screen Landscaping shall be installed along the west property line.
3. Prior to the issuance of certificate of occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.
4. Fences or walls shall be constructed prior to occupancy and shall be as follows:

- a. Eight-foot-high wood fence with decorative masonry pilasters at 16-foot on-centers on the south side of the property where the fence is adjacent to the building.
 - b. Seven-foot-high wood fence with decorative masonry pilasters at 16-foot on-centers on the north side of the property where the fence is adjacent to the building.
 - c. Seven-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on-centers on the south, east and west sides of the property where the fence is adjacent to parking or driveways.
5. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.
6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.
7. Street dedication consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
8. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
9. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
10. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.
11. All utilities shall be underground and cable television service shall be stubbed into all units.

12. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection all fire hydrants as re-quired by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.
13. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
14. 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 stormwater 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.
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.
16. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.
17. All signs shall comply with the sign requirements of the R-3 Zone.
18. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.
19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
20. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.

21. The developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of both parcels substantially as shown in red on the plot plan.
22. Prior to the certificate of occupancy, a fire turnaround, which meets City Standards, shall be constructed as approved by the Fire Chief.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone,

P-D(562):

The construction program be accomplished in phases as follows:

Phase I – Construction to begin on or before October 14, 2005 and completion to be not later than October 14, 2006.

Phase II – Construction to begin on or before October 14, 2006 and completion to be not later than October 14, 2007.

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(562), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR City Clerk

(SEAL)

APPROVED AS TO FORM:

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

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-553**

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 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW-DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(562), PROPERTY LOCATED ON THE WEST SIDE OF CARVER ROAD, OPPOSITE MONTCLAIR DRIVE (MARY SILVEIRA)

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, Mary Silveira has proposed that the zoning designation for the property located on the west side of Carver Road, opposite Montclair Drive be amended to rezone from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562), in the City of Modesto (the “project”), to allow a 14 unit townhouse-style apartment complex, 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 2003-75 reviewed the proposed amendment to the Zoning Map and rezone P-D(562) 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 September 15, 2003 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 14 , 2003, 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(562) 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 FMEIR Update (SCH No. 1999082041) as being within the scope of the FMEIR Update.
2. That the project will have no new significant effects on the environment not identified or examined in the FMEIR Update, 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 FMEIR Update will be sufficient for this project.
5. That all feasible mitigation measures set forth in the FMEIR Update 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 14th day of October, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-75

City of Modesto
Initial Study

P-D – Carver Apartments
EA/C&ED 2003-75
August 19, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
P-D – Carver Apartments
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community Development Department, (209) 571-5540
- A. Project Location:
West side of Carver Road, opposite Montclair Drive
- E. Project Sponsor:
Mary Silveira
- F. General Plan Designation:
Residential (R)
- G. Current Zoning:
Low Density Residential (R-1)
- H. Description of Proposed Project:
This is an application to rezone a one acre parcel located on the west side of Carver Road, opposite Montclair Drive from R-1 (Single Family Residential) to P-D (Planned Development) to allow the development of a two-story, 14-unit townhouse-style apartment complex with 57 parking stalls.
- I. Surrounding land uses:

The project is surrounded by a vacant lot to the north, Carver Road to the east, a single family residence and church to the south, and single family residential to the west.

- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as Residential. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. This project is consistent with the General Plan in both land use and intensity. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. This project is consistent with the General Plan in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are therefore still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V- 9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as Residential. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. This

project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project was referred to the affected school districts who raised no objection or concern upon reply. The appropriate school impact fees will be assessed on all construction. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will result in no additional potential for exposing people to landslides or

earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity(pages V-17-1 through V-17-12) are therefore still valid.

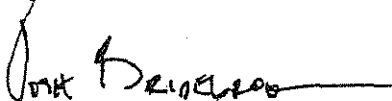
R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This initial study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Josh Bridegroom,
Assistant Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 554**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN KAISER FOUNDATION HOSPITALS AND THE CITY OF MODESTO**

WHEREAS, Kaiser Foundation Hospitals has applied for rezoning, annexation, a sphere of influence amendment and a development agreement to develop a 1.2-million-square-foot medical center located on the west side of Dale Road north of Bangs Avenue, and

WHEREAS, because of the complexity of the entitlement process for the medical center, Kaiser Foundation Hospitals desires to enter into a Memorandum of Understanding with the City of Modesto for issues related to the processing of said entitlements, and

WHEREAS, staff from Kaiser Foundation Hospitals and the City of Modesto have negotiated terms of a Memorandum of Understanding satisfactory to both parties, and

WHEREAS, the City Council Economic Development Committee considered the proposed Memorandum of Understanding on September 8, 2003, and unanimously recommended approval by the City Council, and

WHEREAS, the City Council considered the proposed Memorandum of Understanding at their regularly scheduled meeting on the 14th day of October, 2003, 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 it hereby approves the Memorandum of Understanding between Kaiser Foundation Hospitals and the City of Modesto related to the processing of development entitlements

for the proposed medical center on the west side of Dale Road north of Bangs Avenue, a copy of which 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 14th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Michael D. Milich

MICHAEL D. MILICH, City Attorney

EXHIBIT 'A'

**MEMORANDUM OF UNDERSTANDING
BETWEEN KAISER FOUNDATION HOSPITALS AND
THE CITY OF MODESTO**

KAISER FOUNDATION HOSPITALS, a California nonprofit public benefit corporation ("Kaiser") and the CITY OF MODESTO, a municipal corporation of the State of California ("City"), enter into this Memorandum of Understanding as of this day of June, 2003 (the "Agreement"). This Agreement is based upon the following facts:

A. Kaiser desires to build a state-of-the-art Kaiser Permanente Medical Center in Modesto, California (the "Medical Center") on 49-acres of unimproved real property located on Dale Road at the corner of Bangs Avenue, adjacent to the north west border of the City of Modesto in an unincorporated area of the County of Stanislaus (the "Project Site"). At this time, there is no Kaiser Permanente hospital in Stanislaus County or in the southern San Joaquin Valley region, where Kaiser anticipates its membership will increase significantly in the next decade. The Kaiser Permanente Modesto Medical Center will help alleviate a projected shortage of hospital beds in Stanislaus County that is expected to exceed 500 beds by the year 2015.

B. On January 27, 2003, Kaiser submitted an application to the City for environmental review of the Medical Center project approvals, agreements, permits and entitlements, certification under the California Environmental Quality Act and approval by the City (the "Entitlements"). The project calls for the phased construction of various inpatient and outpatient facilities at the new Medical Center campus site over a 25 year term, including a hospital, hospital support wing, medical services buildings, central plant, and ancillary structures (the "Project").

C. Because of the large capital commitments, expenses and outlay for a project of such magnitude, the timing and expedient processing of Entitlements is important to Kaiser. Kaiser understands that the outcome of the Entitlement process cannot be predetermined, but desires that the processing of the Medical Center permits and approvals be granted priority by the City of Modesto. Kaiser desires that the City and its staff understand the importance of the Project schedule and the need for the efficient prioritization and allocation of staff time and resources and cooperation and coordination with the County of Stanislaus to avoid undue delay in the provision of health care to Kaiser members and the community. Because of the need to improve the availability and the quality of health care to Kaiser Permanente members and the community, Kaiser desires to obtain the Entitlements from the City as soon as possible,

with an initial target date of May 1, 2004. Kaiser recognizes that timely, thorough and consistent responses and decisions by Kaiser are required to expedite the schedule.

D. Kaiser has selected the City of Modesto and the County of Stanislaus for the Medical Center site in part because Kaiser is confident in the ability of the City and County to cooperate and process the Entitlements on an expedited basis. To date, Kaiser has received exemplary cooperation from all of the City departments in the timely processing and expediting of the Entitlements. The parties acknowledge that the City of Modesto wishes to undertake the land use entitlement and environmental review process in a time-sensitive manner to expedite the provision of health care to Kaiser members in Modesto.

E. Kaiser Permanente is the largest non-profit health maintenance organization in the United States. The Medical Center campus is expected to serve approximately 165,000 members in Kaiser's Stanislaus/Manteca/Tracy market at the time that the first Medical Services Building opens in 2005 and over 195,000 members when the hospital opens in 2008. After opening, the Medical Center will be recruiting employees from a wide range of professions to service the Medical Center to work and live in Modesto. The parties acknowledge that the economic impacts created by this Project will help generate employment and economic development in the City of Modesto and the County of Stanislaus such as construction related jobs and be an important part of the emergence of Modesto and Stanislaus County as a regional medical center and a Healthcare Center of Excellence.

To achieve the goals outlined in these recitals, the parties desire to enter into this Agreement.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. City will appoint a development team with one identified team leader empowered to coordinate City's various departments in their interaction with the Kaiser development team. The "City Development Team" shall consist of this team leader and persons responsible for various subject areas and the departments necessary to the timely processing of the Kaiser application, as reasonably requested by Kaiser. The City Development Team shall include an attorney from the City Attorney's office on a periodic basis. Kaiser will appoint a development team with an identified team leader to interact with the City development team and to include all technical and legal experts necessary facilitate the entitlement process.

2. City and Kaiser agree to work with the County of Stanislaus and LAFCO in the processing of the sphere of influence amendment, annexation and related issues and City agrees to participate in a multi-agency team to streamline processing of the Project should other agencies desire to participate.

3. City and Kaiser will use their best efforts to process the Kaiser application pursuant to a schedule mutually agreed upon by both parties. The City and Kaiser will participate in meetings and conference calls and take all actions as are necessary to stay on the processing schedule. The City and Kaiser will ensure that its personnel are available to avoid delay to the schedule. City and Kaiser personnel will be available to review documents produced by City consultants in a timely manner with priority and Kaiser agrees to pay for the reasonable cost of hiring of temporary outside staff support if the City project leader determines that such support will be necessary to keep the Project on schedule. City and Kaiser shall review and provide its input to sub-consultant reports such as traffic and water studies within a reasonable time frame and review and provide its input to the EIR Consultant on the Administrative Draft Environmental Impact Report within thirty (30) working days. The City and Kaiser will use best efforts to maintain the schedule attached hereto as Exhibit "A", which may be revised from time to time.

4. Kaiser acknowledges that changes to the Project, changes to the Project description, and delays in providing and reviewing documents or responding to requests for information from the City, City consultants and LAFCO by Kaiser will result in delays to the schedule. Kaiser agrees to respond to the data requests of the City's EIR consultant in a timely manner and do all necessary actions in its power to expedite the Project schedule. Kaiser also acknowledges that the Project schedule will be impacted by the public comment process and desires to encourage the discourse with the community regarding the development of the Medical Center.

5. City will undertake and produce in a timely manner the water supply assessment required for the project pursuant to the provisions of Senate Bill 610.

6. City represents the following: (a) the Medical Campus project site has complied with the provisions of City initiatives, Measure A and Measure M, or is exempt from such measures; (b) City believes that sufficient wastewater plant treatment capacity and wastewater transmission capacity is or will be available to serve the Medical Campus project. City and Kaiser will cooperate in the preparation of facilities plans to provide wastewater service to each phase of the Medical Campus project; (c) the City believes that there is sufficient domestic water supply capacity to serve the Medical Campus project. City and Kaiser will cooperate in the preparation of the required Municipal Service Review, Master Services Element, SB610 Water Supply Assessment and facility study to ensure water supply, storage and transmission to each phase of the Medical Campus project. The above representations are subject to completion of the required Municipal Service Review, Master Services Element, and water supply assessment required by SB610.

7. City acknowledges that a development agreement will be requested by Kaiser to vest the Project Entitlements for a multi-year term and such a development agreement may include topics such as: (1) the vesting of fees and exactions for the Project, (2) an exemption from any development moratorium unless the moratoria is required to protect the public health and safety, (3) varying the phasing of construction, (4) the possible use by Kaiser of modular buildings for medical uses prior to completion of permanent structures on the site; (5) mitigation for environmental impacts identified in the EIR; and (6) provision for infrastructure necessary to serve the project site and the 39 acres of business park land to the north of the project site.

8. Kaiser represents that the size of the Project Site is the minimum necessary for the Medical Center buildout. If mitigation for environmental or other purposes is proposed that would utilize land owned or to be owned by Kaiser, City will work cooperatively to minimize the use of Kaiser land if other feasible alternatives exist.

9. City and Kaiser agree to prepare any information required by the Stanislaus Local Agency Formation Commission ("LAFCO") pursuant to a schedule that ensures that any necessary LAFCO information is included in the environmental impact report prepared for the project and preparation of such information shall not cause delay to the processing schedule.

10. The City and Kaiser agree to prepare the necessary documents and information needed to process the Specific Plan Amendment to the Kiernan Business Park Specific Plan which is attached hereto as Exhibit "B" and to have such Specific Plan Amendment considered and acted upon by the appropriate decision-making bodies. All City-initiated amendments to the Specific Plan that require analysis by the EIR will be included by City in the project prior to the release of the NOP for the project.

11. City and Kaiser agree to cooperate with the County, Caltrans, StanCOG, and other responsible agencies-to facilitate adequate traffic improvements by these and other agencies in the area of the project.

12. City agrees to provide notice of the CEQA review process to interested parties such as the Salida Municipal Advisory Council, the Salida Fire Protection District, and the Fleur de Ville Homeowners Association. Kaiser agrees to work closely with these entities to address their concerns.

13. The parties agree to work together to create design guidelines for the Kiernan Business Park that will ensure that quality development shall be required in the area surrounding the Medical Campus project site.

14. The project also includes annexation of 39 acres of additional business park land to the north of the project site. Kaiser acknowledges that it is responsible for coordinating responses to the City's requests for information and entitlement proposals for the Kaiser proposal and the adjacent 39 acres, and ensuring that the City receives adequate and timely information necessary for the successful and timely completion of the entitlement process, including CEQA review, for this area.

15. The parties acknowledge and agree that this MOU expresses only the intentions of the parties and shall not constitute a binding agreement. Kaiser acknowledges that as a public municipal corporation, City and its Council, Boards, Commissions, Departments, employees, officers, agents and representatives exercise certain police powers, taxation powers, and other governmental powers duties and authorities over the Project Site and the 39 acres of business park land to the north of the project site, and are required to follow applicable provisions and requirements of the City Charter of the City of Modesto, the Modesto Municipal Code, the California Environmental Quality Act (Public Resources Code § 21000 et seq., "CEQA"), and other ordinances, regulations, statutes and laws (collectively the "Entitlement Laws") regarding the review, consideration, processing and approval of the Entitlements, the Development Agreement and other administrative or ministerial approvals, permits, plans or actions required for the development of the Medical Center. The Entitlement Laws require, among other actions, the filing of applications, payment of processing fees, and public notice and public hearings regarding the Entitlements and the Project. Kaiser acknowledges that City reserves (without qualification or restriction whatsoever) all of its rights under the Entitlement Laws (or any other applicable statute, law, ordinance, order, code or regulation) to approve, conditionally approve, modify, or deny the Entitlements and all other administrative or ministerial approvals, permits, plans or actions required for the development of the Medical Center Project. Notwithstanding any provision of this Agreement to the contrary, nothing contained in this Agreement shall in any manner (a) limit, restrict or affect (or constitute any form of promise to limit, restrict or affect in the future) in any manner the exercise by City of its police powers, taxation powers or any other governmental powers, duties and authorities under the Entitlement Laws or any other statutes, laws, ordinances, or regulations or (b) constitute the approval of a project under CEQA or an action, policy, undertaking or other action requiring approval from the City.

"KAISER"

KAISER FOUNDATION HOSPITALS,
a California non-profit public benefit
corporation

By:
Name: Toni Flores
Senior Operations Leader

"CITY"

CITY OF MODESTO, a municipal corporation
of the State of California

By:
Jack C. Crist
City Manager/Executive Director

ATTEST:

By:
JEAN ZAHR
City Clerk

APPROVED AS TO FORM:

By:
MICHAEL D. MILICH
City Attorney

(SEAL)

Exhibit "A"

Kaiser Medical Center Processing Schedule

Kaiser Medical Campus Entitlement Schedule

Blue: Assuming Significant Comments on EIR
 Red: Assuming No Significant Comments on EIR
 8/1/03

ID	Task Name	Duration	Start	Finish	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter			3rd Quarter					
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug				
1	CEQA Begins	0 days	Mon 2/3/03	Mon 2/3/03	◆ 2/3																							
2	Develop Approach to EIR	80 days	Mon 2/3/03	Fri 5/23/03	[Bar]																							
3	Develop Approach to EIR	80 days	Mon 2/3/03	Fri 5/23/03	[Bar]																							
4	Kaiser Project Description	100 days	Thu 2/20/03	Wed 7/9/03	[Bar]																							
5	Kaiser Project Description	100 days	Thu 2/20/03	Wed 7/9/03	[Bar]																							
6	NOP/Initial Study Admin Draft	23 days	Fri 5/23/03	Tue 6/24/03	[Bar]																							
7	NOP/Initial Study Admin Draft	23 days	Fri 5/23/03	Tue 6/24/03	[Bar]																							
8	City review NOP/Initial Study	10 days	Wed 6/25/03	Tue 7/8/03	[Bar]																							
9	City review NOP/Initial Study	10 days	Wed 6/25/03	Tue 7/8/03	[Bar]																							
10	Notice Of Prep. Review Period	23 days	Tue 7/15/03	Thu 8/14/03	[Bar]																							
11	Notice Of Prep. Review Period	23 days	Tue 7/15/03	Thu 8/14/03	[Bar]																							
12	Scoping Meeting	0 days	Wed 7/23/03	Wed 7/23/03	◆ 7/23																							
13	Scoping Meeting	0 days	Wed 7/23/03	Wed 7/23/03	◆ 7/23																							
14	Transportation Report	68 days	Wed 6/25/03	Fri 9/26/03	[Bar]																							
15	Transportation Report	68 days	Wed 6/25/03	Fri 9/26/03	[Bar]																							
16	Administrative Draft EIR	95 days	Mon 6/16/03	Fri 10/24/03	[Bar]																							
17	Administrative Draft EIR	95 days	Mon 6/16/03	Fri 10/24/03	[Bar]																							
18	Agency Review of Admin. Draft	20 days	Mon 10/27/03	Fri 11/21/03	[Bar]																							
19	Agency Review of Admin. Draft	20 days	Mon 10/27/03	Fri 11/21/03	[Bar]																							
20	Prepare Draft EIR	22 days	Mon 11/24/03	Tue 12/23/03	[Bar]																							
21	Prepare Draft EIR	22 days	Mon 11/24/03	Tue 12/23/03	[Bar]																							
22	Draft EIR Publication Date	0 days	Wed 12/24/03	Wed 12/24/03	◆ 12/24																							
23	Draft EIR Publication Date	0 days	Wed 12/24/03	Wed 12/24/03	◆ 12/24																							
24	Draft EIR Public Review Period	34 days	Wed 12/24/03	Mon 2/9/04	[Bar]																							
25	Draft EIR Public Review Period	34 days	Wed 12/24/03	Mon 2/9/04	[Bar]																							
26	Draft EIR Public Hearing	0 days	Thu 1/29/04	Thu 1/29/04	◆ 1/29																							
27	Draft EIR Public Hearing	0 days	Thu 1/29/04	Thu 1/29/04	◆ 1/29																							
28	Responses to Comments	30 days	Tue 2/10/04	Mon 3/22/04	[Bar]																							
29	Responses to Comments	15 days	Tue 2/10/04	Mon 3/1/04	[Bar]																							
30	Review of Responses	15 days	Tue 3/23/04	Mon 4/12/04	[Bar]																							
31	Review of Responses	10 days	Tue 3/2/04	Mon 3/15/04	[Bar]																							
32	Revise Comments	5 days	Tue 4/13/04	Mon 4/19/04	[Bar]																							
33	Revise Comments	5 days	Tue 3/16/04	Mon 3/22/04	[Bar]																							
34	Findings/SOC	15 days	Mon 3/29/04	Fri 4/16/04	[Bar]																							
35	Findings/SOC	15 days	Mon 3/1/04	Fri 3/19/04	[Bar]																							
36	Staff Report	15 days	Mon 3/29/04	Fri 4/16/04	[Bar]																							
37	Staff Report	15 days	Mon 3/1/04	Fri 3/19/04	[Bar]																							
38	Review of Staff Report & Findings	10 days	Mon 4/19/04	Fri 4/30/04	[Bar]																							
39	Review of Staff Report & Findings	10 days	Mon 3/22/04	Fri 4/2/04	[Bar]																							
40	Planning Commission Meeting	0 days	Mon 5/17/04	Mon 5/17/04	◆ 5/17																							

Kaiser Medical Campus Entitlement Schedule

Blue: Assuming Significant Comments on EIR
 Red: Assuming No Significant Comments on EIR
 8/1/03

ID	Task Name	Duration	Start	Finish	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter			3rd Quarter	
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
41	Planning Commission Meeting	0 days	Mon 4/19/04	Mon 4/19/04																◆	4/19			
42	City Council Meeting	0 days	Tue 6/22/04	Tue 6/22/04																		◆	6/22	
43	City Council Meeting	0 days	Tue 5/11/04	Tue 5/11/04																		◆	5/11	
44	LAFCO Meeting	0 days	Wed 7/28/04	Wed 7/28/04																			◆	7/28
45	LAFCO Meeting	0 days	Wed 6/23/04	Wed 6/23/04																			◆	6/23

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-555**

A RESOLUTION ACCEPTING \$166,485 IN GRANT FUNDING FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, JOBS HOUSING BALANCE INCENTIVE GRANT, FOR PORTIONS OF THE CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT CONTRACT.

WHEREAS, funding for Job Housing Balance Incentive Grant (JHBP) has been made available by the California Department of Housing and Community Development (Department), pursuant to the Housing and Emergency Shelter Trust Fund of 2002 (Proposition 46), Notice of Funding Availability (NOFA) released January 24, 2003, and

WHEREAS, pursuant to the statute, the Department is authorized to approve funding allocations for the program, subject to the terms and conditions of the NOFA and program application form, and

WHEREAS, on March 26, 2003, the City of Modesto, Parks, Recreation and Neighborhood (PR&N) Department applied for, and was successful in receiving grant funding for a portion of the construction costs of the Neighborhood Center at Marshall Park, and

WHEREAS, the PR&N Department shall be subject to the terms and conditions as specified in the standard agreement (Contract), and funds are to be used for allowable expenditures as identified in **Attachment A** of the Contract, and

WHEREAS, the application in full is incorporated as part of the Contract and any and all activities funded, information provided and timelines represented in the application are enforceable through the Contract, and

WHEREAS, the PR&N Department hereby agrees to use the funds for eligible capital assets in the manner presented in the application as approved by the Department and in accordance with the NOFA and application package,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts \$166,485 in grant funding under the California Department of Housing and Community Development, Job Housing Balance Incentive Grant, for a portion of the construction costs of the Neighborhood Center at Marshall Park.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager, or his designee, to execute the Contract, and any and all instruments required by the Department for participation in the JHBP.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-556**

A RESOLUTION AMENDING THE FY2003-04 CIP AND OPERATING BUDGETS TO ESTIMATE \$166,485 IN NEW REVENUE, APPROPRIATE \$166,485 TO CIP NEIGHBORHOOD CENTER AT MARSHALL PARK (1300-310-M163), REDUCE THE CDBG CONTRIBUTION TO PROJECT M163 BY \$166,485, AND TRANSFER THIS AMOUNT TO CDBG RESERVE, (1130-800-8000-8003).

WHEREAS, on March 26, 2003, staff submitted an application for \$166,485 in grant funding under the California Department of Housing and Community Development, Job Housing Balance Incentive Grant (JHBP) for a portion of the construction costs of the Neighborhood Center at Marshall Park, with the balance of project funds to be provided from the anticipated Section 108 Loan Guarantee, and

WHEREAS, staff received a grant contract for the above project dated September 24, 2003 in the amount of \$166,485,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the fiscal year 2003-2004 Capital Improvement budget to estimate \$166,485 in revenue from the California Department of Housing and Community Development, Job Housing Balance Incentive Grant and to appropriate \$166,485 to the Neighborhood Center at Marshall Park (M163).

BE IT FURTHER RESOLVED THAT \$166,485 will be reduced in revenue and expenditure from project M163, and this amount will be transferred to CDBG Reserve.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, 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: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-557**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
ELIZABETH GRAHAM, SUSAN JOHNSEN AND GENE CARHART FROM
THE COMMUNITY QUALITIES FORUM, EFFECTIVE OCTOBER 28, 2003**

WHEREAS, ELIZABETH GRAHAM was appointed a member of the
Community Qualities Forum on May 15, 2001; and

WHEREAS, SUSAN JOHNSEN was appointed a member of the Community
Qualities Forum on April 10, 2001; and

WHEREAS, GENE CARHART was appointed a member of the Community
Qualities Forum on February 12, 2002; and

WHEREAS, ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE
CARHART have tendered their resignations from the Community Qualities Forum,
effective October 28, 2003; and

WHEREAS, ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE
CARHART have been a devoted and sincere public servants and have contributed greatly
to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignations of ELIZABETH
GRAHAM, SUSAN JOHNSEN and GENE CARHART from the Community Qualities
Forum be, and hereby are 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 ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE CARHART for
their 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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-558**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO
ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1
(FAIRVIEW VILLAGE) AND TO AUTHORIZE THE LEVY OF A SPECIAL
TAX WITHIN SAID COMMUNITY FACILITIES DISTRICT**

WHEREAS, Del Valle Capital Corporation, Inc., the owner (the "Owner") of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the "Property"), has filed a written petition with the City of Modesto (the "City") to establish the City of Modesto Community Facilities No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A hereto, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the cost of the services listed in Appendix A hereto (the "Services"); and

WHEREAS, the Owner has heretofore submitted to the City an application to form the Community Facilities District and has advanced to the City the deposit required pursuant to the City's Policies & Procedures for the Formation, Annexation, and Administration of Communities Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982 (the "City's CFD Policies and Procedures"); and

WHEREAS, the petition submitted by the Owner complies with the requirements of Section 53319 of the Act and the City's CFD Policies and Procedures; and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax and (in the case of the Facilities and the Incidental Expenses) the issuance of bonds, provided that the levy of the special tax and the issuance of the bonds are approved at an election to be held within the boundaries of the Community Facilities District;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District shall be as depicted on the map of the proposed Community Facilities District which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the Community Facilities District and record it with all proper endorsements thereon with the County Recorder of the County of Stanislaus within fifteen days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

SECTION 3. The name of the proposed Community Facilities District shall be "City of Modesto Community Facilities District No. 2003-1 (Fairview Village)."

SECTION 4. The Facilities and Services proposed to be provided within the Community Facilities District are each facilities or services, as the case may be, which the City is authorized by law to construct, acquire, own and operate, or to provide. This City Council hereby finds and determines that the descriptions of the Facilities and the Services contained herein is sufficiently informative to allow taxpayers within the proposed Community Facilities District to understand what the funds of the Community

Facilities District may be used to pay for. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the Community Facilities District and levying and collecting a special tax within the Community Facilities District.

SECTION 5. Except where funds are otherwise available, it is the intention of this City Council to levy annually in accordance with the procedures contained in the Act a special tax, secured by recordation of a continuing lien against all non-exempt real property in the Community Facilities District, sufficient to pay for: (i) the Facilities, the Incidental Expenses and the Services and (ii) the principal of and interest on and other periodic costs with respect to the bonds issued to finance the Facilities and the Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the Community Facilities District and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) in connection with the bonds. The Facilities may be financed on a direct payment basis or through the issuance of the bonds. The rate, method of apportionment and manner of collection of the special tax are described in detail in Appendix B attached hereto and incorporated herein as though set forth at length (the "Rate and Method"). Appendix B allows each landowner and resident, if any, within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2044-2045 tax year and (ii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten percent (10%).

This City Council hereby determines the Rate and Method to be reasonable. The special tax is apportioned to each parcel on the basis of its net acreage pursuant to Section 53325.3 of the Act; and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special tax, this City Council shall, on behalf of the Community Facilities District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in the Rate and Method, to the extent necessary upon the remaining property within the Community Facilities District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section 5.

SECTION 6. A public hearing (the "Hearing") on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on December 2, 2003, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 95353. Should this City Council determine to form the Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portion thereof owned within the Community Facilities District. Ballots for the special election may be distributed by mail or by personal service.

SECTION 7. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed Community Facilities District, may appear and be heard.

SECTION 8. Each officer of the City who is or will be responsible for providing the Facilities or Services within the proposed Community Facilities District, if it is established, is hereby directed to study the proposed Community Facilities District and, at or before the time of the Hearing, file a report with this City Council containing a brief

description of the Facilities or Services, as the case may be, which will in his or her opinion be required to meet adequately the needs of the proposed Community Facilities District and an estimate of the cost of providing those Facilities or Services and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the Community Facilities District. The City may enter into an agreement 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 value, or cost, whichever is less, of the work-in-kind, as determined by this City Council, with or without interest.

SECTION 10. The Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing. The Clerk is further directed to mail a copy of the Notice to each of the landowners and registered voters, if any, within the boundaries of the Community Facilities District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed Community Facilities District and a description of the proposed voting procedure for the election required by the Act.

SECTION 11. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

APPENDIX A

LIST OF FACILITIES

Water System:

Two wells, distribution pipelines, well-head treatment systems, surface water supply pipelines, tanks, booster pumps and approximately 1.75 acres of land. The well-head treatment system is proposed to be financed through acquisition, construction, lease, lease-purchase, or installment-purchase arrangement. The proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

Wastewater System:

Two lift stations and two force mains.

Storm Drain System:

Approximately nine acres of land, storm drainage facilities including pump station, dual-use basin and landscaping, fencing, lift station, force main and gravity line.

Class I Bike Trail:

Includes demolition, grading and drainage, site electrical, construction, site furnishings, irrigation and planting.

LIST OF SERVICES

Maintenance of parks, parkways and open space (including the bike trail) and maintenance of the storm drainage basin and related facilities.

APPENDIX B
RATE AND METHOD OF APPORTIONMENT

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 2003-1
(FAIRVIEW VILLAGE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" 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. 2003-1, 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. 2003-1 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:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

"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: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, 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, costs associated with complying with any continuing disclosure requirements for the Bonds and 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 Tax.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

“Annual Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

“Annual Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds, (ii) to create or replenish reserve funds, (iii) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“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.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

“Capitalized Interest” means funds in any capitalized interest account available to pay debt service on Bonds.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2003-1 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. 2003-1.

“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
- for Single Family Attached 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.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

“Development Plan” means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, 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.

“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 Annual Facilities Special Tax” means the greatest amount of Annual 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 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 Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

“One-Time Facilities Special Tax” means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

“One-Time Facilities Special Tax Requirement” means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

“Original Parcel” means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. 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.

“Other Property” means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and 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 Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and 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. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Attached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

“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 Unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax, the Annual 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.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 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. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

“Tax Zone” means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

“Tax Zone #1” means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

“Unit” means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

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. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and

use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

C. CALCULATING THE MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

1. Original Parcels

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

2. Successor Parcels

a. *All Successor Parcels are Single Family Detached Lots*

If the Parcels created by a recorded Subdivision Map are all 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 created by the subdivision:

Step 1: Identify the Maximum Special Taxes assigned to the Original Parcel;

Step 2: Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by 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: Identify the Maximum Special Taxes assigned to the Original Parcel;

- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor 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 allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

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 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. Annual Facilities Special Tax

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually 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. 2003-1 and shall be collected as set forth in Section F below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:* The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;
- Step 2:* If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities 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 Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the 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 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.

E. 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. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

“Public Facilities Requirements” means either \$3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by 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 such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1. Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2. Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 4. Compute the current Remaining Facilities Costs (if any).
- Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (*the "Remaining Facilities Amount"*).
- Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (*the "Redemption Premium"*).
- Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8: Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the "Defeasance Requirement"*).
- Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
- Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding

Bonds to be redeemed pursuant to the prepayment (the "*Reserve Fund Credit*").

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

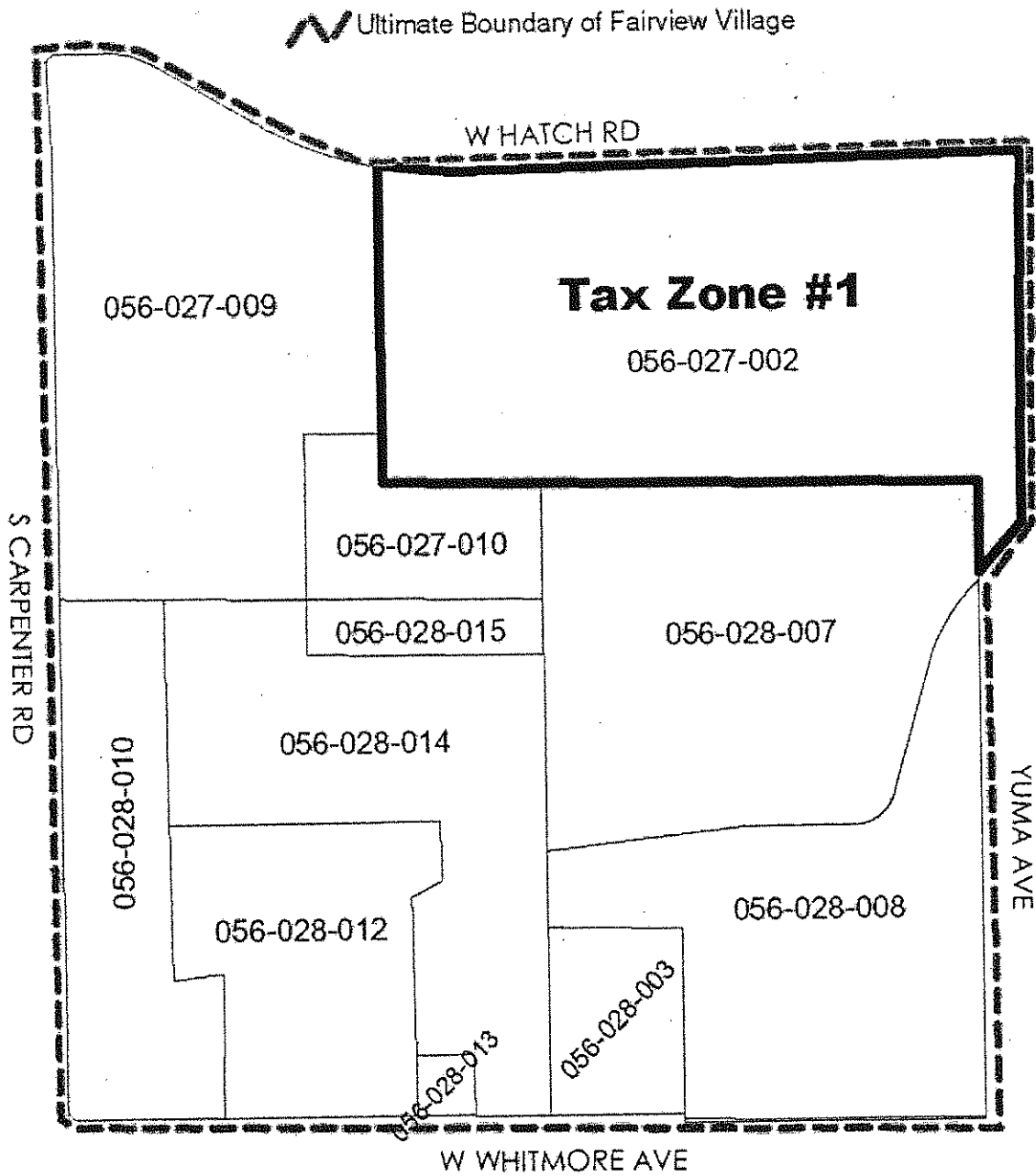
I. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the 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 Tax.

ATTACHMENT 1

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



ATTACHMENT 2

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

MAIXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN
EACH TAX ZONE

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually 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.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-559**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO
INCUR BONDED INDEBTEDNESS IN THE AMOUNT NOT TO EXCEED
\$25,000,000 WITHIN PROPOSED CITY OF MODESTO COMMUNITY
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

WHEREAS, pursuant to a resolution adopted on the date hereof (the "Companion Resolution"), this City Council has instituted proceedings for the possible formation of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Companion Resolution, and all appurtenances and appurtenant work associated with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the costs of the services listed in Appendix A to the Companion Resolution (collectively, the "Services"); and

WHEREAS, this City Council estimates that the amount of bond proceeds required to finance the Facilities and Incidental Expenses is approximately \$25,000,000; and

WHEREAS, in order to finance the Facilities and Incidental Expenses, subject to the formation of the Community District and to the satisfaction of all applicable requirements of law, this City Council intends to authorize the issuance of bonds in the maximum aggregate principal amount of \$25,000,000, the repayment of which is to be secured by special taxes levied in accordance with the Act on all property in the Community Facilities District, other than those properties exempted from taxation in the rate and method of apportionment set forth in Appendix B to the Companion Resolution;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. It is necessary to incur bonded indebtedness within the boundaries of the Community Facilities District in an amount not to exceed \$25,000,000 to finance certain of the costs of the Facilities and Incidental Expenses, as permitted by the Act.

SECTION 3. The indebtedness will be incurred for the purpose of financing the costs of the Facilities and the Incidental Expenses, including, but not limited to, the funding of reserve funds for the bonds, the financing of costs associated with the issuance of the bonds and all other costs and expenses necessary to finance the Facilities which are permitted to be financed pursuant to the Act.

SECTION 4. It is the intent of this City Council to authorize the sale of bonds in one or more series, in the maximum aggregate principal amount specified in Section 2, and at a maximum interest rate not in excess of 12 percent per annum, or a higher rate not in excess of the maximum rate permitted by law at the time that the bonds are issued. The term of the bonds of each series shall be determined pursuant to a resolution of this City Council authorizing the issuance of the bonds of such series, but such term shall in no event exceed 40 years from the date of issuance of the bonds of such series, or such longer term as is then permitted by law.

SECTION 5. A public hearing (the "Hearing") on the proposed debt issue shall be held at 5:30 p.m., or as soon thereafter as practicable, on December 2, 2003, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 93535.

SECTION 6. At the time and place set forth in this Resolution for the Hearing, any interested persons, including all persons owning land or registered to vote within the Community Facilities District, may appear and be heard.

SECTION 7. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-560**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)**

WHEREAS, Del Valle Capital Corporation, Inc. (the "Developer") has filed with this City Council a petition requesting the formation of a community facilities district and the issuance of bonds to finance and maintain certain infrastructure; and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Advanced Funding Agreement by and between the City and the Developer relating to advances made and to be made by the Developer to the City (the "Advanced Funding Agreement");

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Advanced Funding Agreement between the City of Modesto and Del Valle Capital Corporation, Inc., be hereby approved and that the City Manager 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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-561**

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING FOR PRELIMINARY WORK TO ASSIST IN THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED KAISER MEDICAL CAMPUS PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$635,768.00

WHEREAS, Kaiser Permanente has applied for an amendment to the Kiernan Business Park Specific Plan, rezoning to a planned development zone, a development agreement, annexation and sphere of influence amendment to allow a 1.2 million square-foot medical campus and the annexation of 39 acres of adjacent business park land located on the west side of Dale Road north of Bangs Avenue (“Kaiser Medical Campus”), 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 Kaiser Medical Campus project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting, to assist with the preparation of environmental impact reports and other environmental documents for the Kaiser Medical Campus project, and

WHEREAS, City staff selected Turnstone Consulting to prepare the environmental impact report for the Kaiser Medical Campus because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City Staff anticipates that the EIR work will involve three contract phases, and

WHEREAS, on June 24, 2003, the City Council adopted Resolution No. 2003-298, approving an agreement with Turnstone Consulting for preliminary work to assist in the preparation of an environmental impact report for the proposed Kaiser Medical Campus in an amount not to exceed \$130,793 (“Agreement”), and

WHEREAS, City staff have negotiated a scope of work for the second phase of the contract, involving preparation of the Draft EIR, for an amount not to exceed \$635,768.00, and now recommend that the Agreement be amended to add this work to the contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 1 to the Agreement between the City of Modesto and Turnstone Consulting Corporation to add Phase II of the environmental work, preparation of the Draft EIR, in an amount not to exceed \$635,768.00 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 1 to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackmah, Keating,
O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Zahr
Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:
BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-562**

A RESOLUTION APPROVING AND ADOPTING THE WATER SUPPLY ASSESSMENT (WSA) PREPARED FOR THE PROPOSED VILLAGE ONE PRECISE PLAN AREAS 2, 15, 16, AND 17, LOCATED WITHIN THE VILLAGE ONE SPECIFIC PLAN, WHICH HAS DETERMINED THAT AN ADEQUATE SUPPLY OF WATER IS AVAILABLE TO MEET THE DEMANDS OF THE PROPOSED 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 project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS, the City of Modesto received a request to conduct a WSA for the proposed approval of Village One Precise Plan Areas 2, 15, 16 and 17 (“Project”), and

WHEREAS, Engineering and Transportation staff completed a WSA for the Project, and

WHEREAS, a determination was made that an adequate water supply is available to meet the demands of the proposed Project, located within the Village One Specific Plan, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on October 13, 2003, and a favorable recommendation was made to forward the WSA to the Council for approval and adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment for the proposed Village One Precise Plan Areas 2, 15, 16 & 17 is hereby approved and adopted. It is further determined that an adequate water supply is available to meet the demands of the proposed Village One Precise Plan Areas 2, 15, 16 & 17.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-563**

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH WEST YOST AND ASSOCIATES (WYA) IN THE AMOUNT OF \$150,000 FOR ADDITIONAL UNFORESEEN WORK IN INTEGRATING THE MID PHASE II PROJECT WITH THE DISTRIBUTION SYSTEM, DEVELOPING A GROUNDWATER MANAGEMENT PROGRAM, AND ON-CALL ENGINEERING SUPPORT SERVICES RELATED TO THE HYDRAULIC MODEL

WHEREAS, on July 23, 2002, the City Council approved a professional services agreement with West Yost and Associates to prepare the Water System Hydraulic Model Update and Associated System Analysis (Study), and

WHEREAS, on June 24, 2003, the City Council approved an amendment to the professional services agreement with West Yost and Associates in the amount of \$92,500 for additional unforeseen work in developing the detailed Water System Hydraulic Model, and

WHEREAS, the Study will perform critical infrastructure planning tasks, including identifying improvements for existing and future services and identifying improvements needed for the Modesto Regional Water Treatment Plant (MRWTP) planned expansion, and

WHEREAS, additional work efforts are needed for the Study in the amount of \$150,000 to integrate the MID Phase II Project with the distribution system, engineering support to develop a Groundwater Management Program and for on-call engineering support services related to the hydraulic model, and

WHEREAS, this second amendment to agreement, identifying additional work efforts for an amount of \$150,000, will enable the Study to proceed as planned with the remaining tasks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the second amendment to agreement with West Yost Associates in the amount of \$150,000 for additional services for the Study.

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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-564**

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT BUDGET TO 1) APPROPRIATE \$105,000.00 FROM THE WATER ENTERPRISE RESERVE FUND 6100-800-8000-8003 TO 6100-430-N639-6010-13; 2) APPROPRIATE \$36,000.00 FROM THE WATER ENTERPRISE RESERVE FUND 6150-800-8000-8003 TO 6150-430-N637-6010-13; 3) APPROPRIATE \$9,000.00 FROM THE WATER ENTERPRISE RESERVE FUND 6160-800-8000-8003 TO 6160-480-Q225-6010-13

WHEREAS, on July 23, 2002, the City Council approved a professional services agreement with West Yost and Associates to prepare the Water System Hydraulic Model Update and Associated System Analysis (Study), and

WHEREAS, on June 24, 2003, the City Council approved an amendment to the professional services agreement with West Yost and Associates in the amount of \$92,500 for additional unforeseen work in developing the detailed Water System Hydraulic Model, and

WHEREAS, the Study will perform critical infrastructure planning tasks, including identifying improvements for existing and future services and identifying improvements needed for the Modesto Regional Water Treatment Plant (MRWTP) planned expansion, and

WHEREAS, additional work efforts are needed for the Study in the amount of \$150,000 to integrate the MID Phase II Project with the distribution system, engineering support to develop a Groundwater Management Program and for on-call engineering support services related to the hydraulic model, and

WHEREAS, this budget augmentation, for an amount of \$150,000 for a total revised Study cost of \$538,900, will enable the Study to proceed as planned with the remaining tasks, and

WHEREAS, the Water Enterprise Reserve Fund has sufficient funds to cover the additional amount of \$150,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Budget to 1) appropriate \$105,000.00 from Water Enterprise Reserve Fund 6100-800-8000-8003 to 6100-430-N639-6010-13; 2) appropriate \$36,000.00 from Water Enterprise Reserve Fund 6150-800-8000-8003 to 6150-430-N637-6010-13; 3) appropriate \$9,000.00 from Water Enterprise Reserve Fund 6160-800-8000-8003 to 6160-480-Q225-6010-13.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-565**

**RESOLUTION APPROVING A SEWER SERVICE AGREEMENT WITH THE
MEMORIAL HOSPITALS ASSOCIATION RELATED TO FURTHER
DEVELOPMENT OF THE HOSPITAL'S PROPERTY, GENERALLY LOCATED
AT THE CORNER OF BRIGGSMORE AVENUE AND COFFEE ROAD, AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Memorial Hospitals Association ("Hospital") has proposed expansion plans on file with the City which include 2 additional Towers, and

WHEREAS, in March 2003, Black & Veatch completed a wastewater system capacity study that identified the improvements needed to provide adequate sewer service for the planned expansion of the Hospital's existing site, and

WHEREAS, the results of the study indicate there is adequate capacity to accommodate the short-term expansion plans of the Hospital, but not the long-term expansion plans without significant improvements to the existing wastewater system, and

WHEREAS, after determining the total cost of the needed improvements to be approximately \$4,100,000, the Hospital will pay its fair share of \$439,000 to the City as a mitigation fee for the impacts to the wastewater collection system resulting from their proposed facility expansions, and

WHEREAS, the design and construction of the required wastewater system improvements for additional discharge capacity to accommodate two additional Tower buildings will be completed by the City prior to the Hospital occupancy of either additional Tower, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Sewer Service Agreement with the Memorial Hospitals

Association relating to the design and construction of certain wastewater system improvements necessary for the Hospital's long-term expansion plans.

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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-566**

**A RESOLUTION ACCEPTING THE PELANDALE AVENUE STREET
IMPROVEMENTS FROM THE SOUTHEAST CORNER OF PELANDALE
AVENUE AND DALE ROAD TO 600 FEET EAST OF DALE ROAD,
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION
AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, O'BRIENS DEVELOPMENT, a California Partnership, entered into a CFF Reimbursement Agreement on September 10, 2002 for improvements to Pelandale Avenue ("Improvements"), and

WHEREAS, HUFF CONSTRUCTION COMPANY, INC., the general contractor for O'BRIENS DEVELOPMENT has filed irrevocable bonds to secure faithful performance and payment for labor and materials in the amount of \$198,600.00 and \$198,600.00, respectively, and

WHEREAS, HUFF CONSTRUCTION COMPANY, INC., on behalf of O'BRIENS DEVELOPMENT, has filed a warranty bond in the amount of \$15,060.00 to guarantee the Improvements, and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Reimbursement Agreement was completed to the satisfaction of the Engineering & Transportation Department as of March 19, 2003, and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the Improvements as complete, and authorize the City Clerk to file a Notice of Completion and release the performance and

labor and materials securities upon expiration of the statutory periods and to release the warranty security on March 20, 2004.

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

1. The Pelandale Avenue improvements are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the Improvements.
2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of \$198,600.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of \$198,600.00 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 improvements in the amount of \$15,060.00 on March 20, 2004, 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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Alison Barratt-Green
ALISON BARRATT-GREEN, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-567**

A RESOLUTION ACCEPTING THE WORK BY INDUSTRIAL ELECTRICAL CO., FOR THE “INSTALL EMERGENCY GENERATORS AT WELL 57, AND TANKS 6, 7, & 8” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$332,895 PER THE CONTRACT.

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled “Install Emergency Generators at Well 57, and Tanks 6, 7, & 8” has been completed, in accordance with the contract agreement dated October 22, 2002.

NOW, THEREFORE, BE IT RESOLVED that the “Install Emergency Generators at Well 57, and Tanks 6, 7, & 8” project be accepted from said contractor, Industrial Electrical Co., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$332,895 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-568**

A RESOLUTION ACCEPTING THE BID OF D.A. WOOD CONSTRUCTION, INC., FOR THE PROJECT TITLED "VARIOUS BORING AND JACKING FOR WATERLINES UNDER M&ET RAILROAD TRACKS" AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the Various Boring and Jacking For Waterlines Under M&ET Railroad Tracks were opened at 11:00 a.m. on September 30, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$316,609.00 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 accepts the bid of \$316,609.00, and hereby awards D.A. Wood Construction, Inc. the contract titled "Various Boring And Jacking For Waterlines Under M&Et Railroad Tracks."

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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-569**

**A RESOLUTION AWARDING THE BID AND APPROVING A \$330,785.00
CONTRACT WITH CYLDE WHEELER PIPELINE, INC., FOR THE PROJECT
TITLED "HILLGLEN AVENUE STORM DRAIN," AND AUTHORIZING THE
DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT**

WHEREAS, the bids received for the HILLGLEN AVENUE STORM DRAIN project were opened at 11:00 a.m. on September 30, 2003, and later tabulated by the Community Facilities District Engineer for the consideration of the Council, and

WHEREAS, the Community Facilities District Engineer has recommended that the bid of \$330,785.00 received from CYLDE WHEELER PIPELINE, INC., be accepted as the lowest responsible bid and the contract be awarded to CYLDE WHEELER PIPELINE, INC.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of \$330,785.00, and hereby awards CYLDE WHEELER PIPELINE, INC., the contract titled "HILLGLEN AVENUE STORM DRAIN ."

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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-570**

A RESOLUTION OF INTENTION TO CONSIDER OPTIONS FOR PENALTIES FOR THE SUBSTANDARD PERFORMANCE OF WASTE MANAGEMENT IN MEETING THE REQUIREMENTS OF THEIR SERVICE AGREEMENT, AND OPTIONS FOR PROVIDING SERVICE IN WASTE MANAGEMENT'S PRESENT SERVICE AREA, AND SETTING A PUBLIC HEARING ON NOVEMBER 13, 2003, TO CONSIDER SAID MATTER.

WHEREAS, on November 1, 1997, the City executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was then a subsidiary of USA Waste of California, which later acquired Waste Management and changed the name of the corporate parent to Waste Management, for a term through January 1, 2007, and

WHEREAS, while the term of this Service Agreement with Waste Management was for 10 years, due to concerns about the corporation's problems in other cities, the City Council added a provision to the Service Agreement to allow the City to terminate the agreement on January 1, 2004, if the City found the company did not meet certain performance standards to the satisfaction of the City, and

WHEREAS, Section b.1. of the Service Agreement states the following performance standards must be met to get to the full 10-year term: Timely payment of fees and charges; Delivery of all waste or recyclables to the facilities specified by the City; Satisfactory resolution of complaints; Compliance with all provisions of the Modesto Municipal Code, the Service Agreement, and state, federal, and local laws pertaining to the collection operations; and Service Agreement provisions regarding recycling and yard waste diversion programs, and

WHEREAS, staff notified the company on multiple occasions that substandard performance was occurring and of the need to meet the requirements of the Service Agreement, and

WHEREAS, staff believes the company has violated multiple provisions of Section b.1. of their Service Agreement, and

WHEREAS, on October 13, 2003, the Economic Development Committee met and supported staff's recommendation to proceed to a full Council hearing to consider penalties and options for providing service in Waste Management's present service area, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.33, the City Council shall hear said matter at a public hearing, on Thursday, November 13th, 2003, 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 Thursday, November 13th, 2003, at 5:30 p.m., in the Tenth Street Chambers located at 1010 10th Street, Modesto, California, is hereby set as the date, time and place for a public hearing to be held to consider options for penalties for the substandard performance of Waste Management in meeting the requirements of their Service Agreement, and options for providing service in Waste Management's present service area.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-571**

A RESOLUTION OF INTENTION TO CONSIDER THE REQUEST OF BERTOLOTTI DISPOSAL, INC. FOR AN ASSIGNMENT AND EXTENSION OF THEIR SERVICE AGREEMENT WITH THE CITY OF MODESTO FOR THE COLLECTION OF COMMERCIAL/RESIDENTIAL GARBAGE/ RECYCLABLES, CONTAINERIZED YARD WASTE, AND INDUSTRIAL GARBAGE, SALVAGEABLE WASTE, AND RECYCLABLES, AND SETTING A PUBLIC HEARING ON NOVEMBER 13, 2003, TO CONSIDER SAID MATTER.

WHEREAS, on September 25, 2003, the City Clerk received a request from Bertolotti Disposal, Inc. for an Assignment and Extension of their Service Agreement to collect commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste, and recyclables in the City of Modesto, and

WHEREAS, Bertolotti Disposal, Inc., wishes to assign its rights and interests under said agreement to its newly formed affiliate company, Bertolotti Modesto Disposal, Inc., and

WHEREAS, on October 13, 2003, the Economic Development Committee met and supported the request of Bertolotti Disposal, Inc., and

WHEREAS, Modesto Municipal Code section 5-5.32 requires that collection companies obtain written consent from the City Council after a public hearing is held, prior to an Assignment of a Service Agreement, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.24, the City Council shall hear such requests at a public hearing, on Thursday, November 13th, 2003, 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 Thursday, November 13th, 2003, at 5:30 p.m., in the Tenth Street Chambers located at 1010 10th Street, Modesto, California, is hereby set as the date, time and place for a public hearing to be held to consider the request of Bertolotti Disposal, Inc., for an Assignment and Extension of their Service Agreement with the City of Modesto for the collection of commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste, and recyclables.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-572**

A RESOLUTION APPROVING THE APPLICATION FOR FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), OFFICE OF NATIONAL PREPAREDNESS FY 2003 SUPPLEMENTAL APPROPRIATION GRANT FOR THE COMMUNITY EMERGENCY RESPONSE TEAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION AND NECESSARY DOCUMENTS.

WHEREAS, the Federal Emergency Management Agency (FEMA) Region IX has notified the governors' offices of California, Hawaii, and Nevada that their states will receive grants to support local homeland security efforts, and

WHEREAS, grant funding in the amount of \$16,147 is available for the Operational Area of Stanislaus County, and

WHEREAS, the funds are available for continued support of, the Community Emergency Response Teams (CERT), and

WHEREAS, the CERT program trains individual citizens in emergency response skills, and

WHEREAS, the purpose of the training is to have all citizens better prepared to respond to disasters of all kinds and a nation prepared, and

WHEREAS, the City desires to apply for grant funding to provide CERT training which will consist of both classroom and hands-on instruction to citizens in the community, and

WHEREAS, the Safety and Communities Committee met on October 6, 2003, and approved the recommendation to apply for the grant

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the filing of an application for a Federal Emergency Management Agency Office of National Preparedness FY 2003 CERT allocation grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and submit the grant application and all documents which may be necessary for the completion of the grant application.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-573**

**A RESOLUTION APPROVING AN AGREEMENT TO PROVIDE UP TO \$40,000
IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO THE
SALVATION ARMY IN ORDER TO IMPLEMENT A DAY FACILITY FOR
HOMELESS INDIVIDUALS AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT.**

WHEREAS, on June 26, 2001, by Resolution No. 2001-313, the City Council approved the designation of the Stanislaus Housing and Support Services Collaborative (SHSSC) as the planning and coordinating body for homeless issues in Stanislaus County, and

WHEREAS, representatives from the Parks, Recreation and Neighborhoods Department participate in this collaborative, and

WHEREAS, the SHSSC is composed of public and private entities concerned with providing safe, affordable housing access and supportive services for people who are homeless or at risk for homelessness, and

WHEREAS, the Homeless Day Facility Committee, a sub-committee of SHSSC, recommended on August 18, 2002, the authorization and distribution of a Request for Qualifications (RFQs) to identify an agency that would take the lead to develop a business plan for a Homeless Day Facility, and

WHEREAS, on October 1, 2002, by Resolution No. 2002-487, the City Council authorized staff to solicit RFQs for the acquisition and implementation of a Day Facility for homeless individuals, and

WHEREAS, the Salvation Army was the only organization to submit a proposal, and

WHEREAS, on December 20, 2002, the Homeless Day Center Review Committee, consisting of a member of the Stanislaus Housing and Support Services Collaborative, County staff, a member from the CH&CDC and City staff met and reviewed the application submitted by The Salvation Army, and

WHEREAS, the Review Committee agreed that The Salvation Army is a well-qualified and capable organization to complete the Homeless Day Facility project, and

WHEREAS, the Citizens Housing and Community Development Committee met on April 25, 2003, and supported the recommendation to accept the Salvation Army, Modesto Corps, as the non-profit agency to implement a day facility for homeless individuals and for staff to develop a \$40,000 pay for performance contract, and

WHEREAS, on August 6, 2003, by Resolution No. 2003-426, the City Council designated the Salvation Army as the non-profit agency to implement a day facility for homeless individuals in Modesto, and authorized staff to work with the Salvation Army to develop a \$40,000 pay for performance contract to begin operation of the Homeless Day Facility, and

WHEREAS, the Salvation Army has developed a four phase plan as follows:

- Phase I: Create networking channels for Homeless Day Facility and other agencies to centralize services targeted specifically for homeless individuals. Preparation of MOU's with each agency.
- Phase II: Completion of Client Assessment/Plan/Referral
- Phase III: Provide communication services to homeless persons (Mail, telephone, computers, staff salaries).
- Phase IV: Showers, laundry facilities, capital improvements.

and,

WHEREAS, the first year, the City will fund up to \$40,000 in CDBG funds to include start-up funding for completion of each phase of said plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement to provide up to \$40,000 in CDBG funds to the Salvation Army in order to implement a day facility for homeless individuals in 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 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-574**

A RESOLUTION APPROVING THE APPLICATION FOR \$250,000 IN GRANT FUNDING FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, EXTERIOR ACCESSIBILITY GRANTS FOR RENTERS (EAGR) PROGRAM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A STANDARD CONTRACT AND INSTRUMENTS REQUIRED FOR EAGR PROGRAM PARTICIPATION.

WHEREAS, funding for the Exterior Accessibility Grants for Renters (EAGR) Program has been made available by the California Department of Housing and Community Development (HCD), pursuant to the Housing and Emergency Shelter Trust Fund of 2002 (Proposition 46), Notice of Funding Availability (NOFA) released October 6, 2003, and

WHEREAS, pursuant to the statute, the HCD is authorized to approve funding allocations for the program, subject to the terms and conditions of the statute and the EAGR Program Guidelines adopted by HCD on October 1, 2003, and

WHEREAS, the City of Modesto, Parks, Recreation and Neighborhood (PR&N) Department wishes to apply for and receive an allocation of \$250,000 in funds through the EAGR Program, and

WHEREAS, the application in full is incorporated as part of the Contract and any and all activities funded, information provided and timelines represented in the application are enforceable through the Contract, and

WHEREAS, if the application for funding is approved, the PR&N Department shall be subject to the terms and conditions as specified in the standard agreement (Contract), and agrees to use the EAGR funds for eligible activities in the manner

presented in the application as approved by HCD and in accordance with the program guidelines,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the application for \$250,000 in grant funding under the California Department of Housing and Community Development, Exterior Accessibility Grants for Renters (EAGR) Program.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager, or his designee, to execute the Contract, and any and all instruments required by the Department for participation in the EAGR Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003- 575**

A RESOLUTION DECLARING ONE (1) PARCEL AS EXCESS LAND TO CITY'S NEEDS AND AUTHORIZING STAFF TO TAKE ALL APPROPRIATE ACTIONS TO COMPLETE THE SALE OF SAID PARCELS BY FOLLOWING THE PROCEDURE SET FORTH IN THE GOVERNMENT CODE FOR SALE OF EXCESS LAND AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL REQUIRED DOCUMENTS RELATED TO THE PROPERTY SALE.

WHEREAS, the City of Modesto acquired 12.6 gross acres of property for purposes of a neighborhood park, which is located as shown on the attached map which is incorporated herein by reference, and

WHEREAS, 4.22 acres of said property are excess to the City's needs, and

WHEREAS, the Council of the City of Modesto desires the property be sold to the Sylvan Union School District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares that a portion of the parcel which was originally acquired and utilized for a City of Modesto neighborhood park and which has since been determined to be surplus to the City's future needs, is excess property to the City.

BE IT FURTHER RESOLVED that the Council hereby authorizes and directs staff to sell the property pursuant to Government Code Section 54220, et seq.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute the necessary documents related to said property sale.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-576**

**A RESOLUTION VACATING AND ABANDONING THE SIX-FOOT-WIDE
WALKWAY BETWEEN DOWNEY HIGH SCHOOL AND LOCKE ROAD
(COLLINS)**

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public rights-of-way, and

WHEREAS, Government Code Section 65402 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, Stanley and Carole Collins have filed an application to vacate and abandon the six-foot-wide walkway between Downey High School and Locke Road, located between 1333 and 1401 Locke Road, and

WHEREAS, a title report was submitted with the abandonment request which vests fee title to the walkway in the adjacent land owners who are proponents of the abandonment, and

WHEREAS, the proposed walkway abandonment has been referred to affected City departments and local utility companies, and no objection to the abandonment has been received, and

WHEREAS, a public hearing was held by the Planning Commission on September 22, 2003, 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. 2003-58, the Planning Commission recommended approval of the proposed vacation and abandonment, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, October 28, 2003, 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 vacation were afforded the opportunity to appear, 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 walkway have been done and accomplished (hearing notice published in the Modesto Bee and posted in the walkway for two successive weeks prior to the Council hearing), and

WHEREAS, on October 28, 2003, the Council of the City of Modesto reviewed the Initial Study (EA/C&ED 2003-80) for the proposed walkway abandonment and adopted Resolution No. 2003-?, thereby providing a determination that the project is within the scope of the Modesto Urban Area General Plan Master Environmental Impact Report

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of

Modesto finds and determines as follows:

1. That the walkway to be abandoned is unnecessary for present or future pedestrian or vehicular use.
2. That Environmental Assessment No. EA C&ED 2003-80 judged this project to be within the scope of the General Plan Master EIR.
3. That the vacation and abandonment of the six-foot-wide walkway between Downey High School and Locke Road, and located between 1333 and 1401 Locke Road, 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 the six-foot-wide walkway between Downey High School and Locke Road, located between 1333 and 1401 Locke Road. Said walkway 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 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Exhibit "A"

The 6-foot Pedestrian Walk in Block 1033 as shown on that certain map filed for record on August 5, 1955 of Downey Manor in Book 18 of Maps, Page 32, situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southwest Quarter of the Southwest Quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

starting at the southwest corner of said section 22-3-9, being also the centerline intersection of original 50 foot Coffee Road and original 40 foot Lucern Avenue; thence along the west line of said section 22-3-9 and the centerline of Coffee Road, $N0^{\circ}14'W$, 659.2 feet, to a point on said centerline; thence leaving said centerline, $S89^{\circ}43'E$, 25.0 feet, to the northwest corner of said Downey Manor subdivision; thence $S0^{\circ}14'E$, 20.0 feet to a point on the west line of said Downey Manor subdivision; thence leaving said west line, $S89^{\circ}43'E$, 20.0 feet, to the northwest corner of Lot 18 in Block 1033 of said Downey Manor subdivision; thence $S89^{\circ}43'E$, 623.22 feet, to the northeast corner of Lot 10 in Block 1033 of said Downey Manor subdivision, said point being the True Point of Beginning; thence $S0^{\circ}20'E$, 114.82 feet to the southeast of said Lot 10; thence $S89^{\circ}42'E$, 6 feet to the southwest corner of Lot 9 in Block 1033 of said Downey Manor subdivision; thence $N0^{\circ}20'W$, 114.82 feet to the northwest corner of said Lot 9; thence $N89^{\circ}43'W$, 6.0 feet to the northeast corner of said Lot 10 and the True Point of Beginning.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-577**

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): VACATION AND ABANDONMENT OF THE SIX-FOOT-WIDE WALKWAY BETWEEN DOWNEY HIGH SCHOOL AND LOCKE ROAD (STANLEY & CAROLE COLLINS)

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, Stanley and Carole Collins have proposed that the six-foot-wide walkway between Downey High School and Locke Road, located between 1333 and 1401 Locke Road, be vacated and abandoned, 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 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 2003-80 reviewed the proposed project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan 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

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 28, 2003, 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 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 walkway abandonment is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Baseline Developed Area.
2. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
3. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
4. There are no specific features unique to this proposed project that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.
5. The Initial Study, EA/C&ED No. 2003-80, provides substantial evidence to support findings 1 through 4, above.

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 28th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Fisher

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City

Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-80

City of Modesto
Initial Study

Walkway Abandonment (Stanley & Carole Collins)

EA/C&ED 2003-80
September 3, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1 of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
P-ABD-03-001 / Application of Stanley and Carole Collins for abandonment of the walkway between Downey High School and Locke Road
- B. Lead agency name and address:
City of Modesto, P.O. Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:
Brad Wall
City of Modesto Community & Economic Development Department
1010 10th Street, Suite 3100
Modesto, CA 95353
(209) 577-5282
- D. Project Location: 1401 Locke Road, Modesto CA
- E. Project Sponsor:
Stanley & Carole Collins
1401 Locke Road
Modesto CA 95355
- F. General Plan Designation: Residential (R)
- G. Current Zoning: Low Density Residential (R-1)
- H. Description of Proposed Project: Abandonment of the walkway

- I. Surrounding land uses:
Residential land uses surround the project site, with the exception of Downey High School to the north.
- J. Other public agencies whose approval is required: None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site for Commercial land uses. The project is consistent with this designation and will not generate greater traffic volumes than those projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this project will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be additional development and increased demand for Water Supplies within the Baseline Developed Area. Therefore, 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 still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project site is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as cited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as cited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the project site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site for Commercial land uses. The project is consistent with this designation and will not generate flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and increased demand for Parks and Open Space within the Baseline Developed Area. This project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for

the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project will not generate any additional demand for schools beyond that anticipated in the General Plan MEIR. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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 still valid.

P. Generation of Hazardous Materials

This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will not result in additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.

R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are still valid.

IV. CONCLUSIONS / DETERMINATIONS OF FINDINGS

- A. The proposed walkway abandonment is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Baseline Development Area.
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this proposed project that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:



Brad Wall
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-578**

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: PRECISE PLAN FOR AREA NO. 2 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE SOUTHEAST CORNER SYLVAN AVENUE AND OAKDALE ROAD IN THE VILLAGE ONE SPECIFIC PLAN AREA (RONALD L. LaFORCE ET AL, MODESTO VENTURE 168, AND CHRIS & PAULINE GIANULIAS)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Ronald L. LaForce et al., Modesto Venture 168, and Chris & Pauline Gianulias, for a Precise Plan for Area No. 2, property located at the southeast corner of Sylvan Avenue and Oakdale Road, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-78, 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

WHEREAS, the Planning Commission, by Resolution No. 2003-54, adopted on September 8, 2003, and City staff, by a report dated October 1, 2003, from the Community and Economic Development Department, recommended to the City Council approval of Precise Plan No. 2 of the Village One Specific Plan, and recommended approval of an Amendment to Section 11-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located at the southeast corner of Sylvan Avenue and Oakdale Road, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 28, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," for the proposed project, and the Council hereby makes the following findings:

1. The proposed Precise Plan and rezoning are consistent with the Village One Specific Plan and Modesto Urban Area General Plan.
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 Village One Program EIR, as amended by the 1994 Supplemental 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 Village One Program EIR, as amended by the 1994 Supplemental EIR, are required.
4. 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.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-78, provides the substantial evidence to support findings 2-4 noted above.

BE IT FURTHER RESOLVED that a copy of said Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," 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 28th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers	None
ABSENT:	Councilmembers	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

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

EXHIBIT "A"

INITIAL STUDY

EA/C&ED NO. 2003-78

**Determination:
Projects within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for
Precise Plans 2, 15, 16, & 17**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Brad Wall
(209) 577-5282

Prepared by:

Brad Wall, Associate Planner
City of Modesto
Community & Economic Development Department
(209) 577-5267

August 22, 2003

WRITTEN CHECKLIST

EAC&ED No. 2003-78

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Section 15182 of the CEQA Guidelines allows the approval of subsequent residential projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- (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.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

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 Areas 2, 15, 16, & 17
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Brad Wall, Associate Planner
Modesto Community & Economic Development
Department
(209) 577-5267
4. **Project Location:** Between Sylvan and Floyd Avenues east of
Oakdale Road - Modesto, California
5. **Project Sponsor's Name and Address:** Ronald L. LaForce (et al)
P.O. Box 814
Modesto CA 95353
6. **General Plan Designation:** The General Plan land use designation for the
project site is: Village Residential (VR). This
designation allows the zoning & land uses
described within the proposed Precise Plans.
7. **Zoning:** Specific Plan Holding (SP-H)
8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the project
applicant proposes a total of approximately 625 single-family lots within the four Precise
Plans (see attached diagram).
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 largely by undeveloped land, which is designated by the Specific Plan for

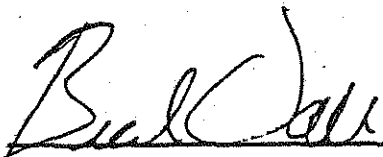
residential development. A mix of residential and commercial zoning and land surround the project site.

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 15182 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.



Project Manager

August 22, 2003

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 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 projects. 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 development 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 projects 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 additional 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant has hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson's Hawk. The biologist's report is attached. There would be no additional impact. No additional 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Strong seismic groundshaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j.	Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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IX. LAND USE AND PLANNING. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.
- 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	Less-than- Significant Impact	No Impact
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Displace a substantial number of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Cause, either individually or cumulatively, exceedance of a LOS standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Result in a change in air traffic patterns, including an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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.

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.

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 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."

2. The following statement shall be placed in all Precise Plans for Residential Development:

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.

3. Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Floyd Avenue (from Oakdale Road to Roselle Avenue): 106 ft.

Oakdale Road (from Sylvan Avenue to Floyd Avenue): 214 ft.

Source: Brown-Buntin Associates Noise Study, April 1993

4. "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."

5. 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.

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SWAINSON'S HAWK FORAGING HABITAT SURVEY
VILLAGE ONE
Precise Plan Areas 2, 15, 16, and 17

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July 25, 2003

INTRODUCTION

Swainson's Hawk, *Buteo swainsoni*, is a species of large hawk which nests in the Central Valley of California. It is a California state listed threatened species and thus it is protected, as is its nesting and foraging habitat. The large Village One development in Modesto, California has been divided into 35 "Precise Plan Areas". An earlier study had identified, in general terms, possible Swainson's Hawk foraging habitat within this development. This study was undertaken to assess the foraging habitat for Swainson's Hawk in four of the Precise Plan Areas (2, 15, 16, and 17). Swainson's Hawks forage for food in a prescribed manner. As is typical of a number of other large hawks, they forage during the daylight hours by soaring high above the ground and watching for suitable prey (mostly small mammals such as mice and ground squirrels, but also large insects like grasshoppers). Once prey is spotted the bird dives to the ground to capture it. Thus suitable foraging habitat must be relatively clear of high vegetation for two reasons: to allow the hawk to see the prey, and to allow the hawk to swoop down upon it without hitting branches or other high vegetation. Thus, open fields and low growing croplands are suitable but orchards, vineyards, and tall crops (mature corn) are not. Corn fields thus present different situations at different stages. Until the corn plants exceed a certain height (1-2 feet) the fields are suitable for foraging. Taller than that, they are not, but once cut down, they are suitable again. Since the Swainson's Hawk is only present in the Central Valley during Spring and Summer and nesting occurs predominantly from April through July, it is the condition of the fields at that time which is most important.

QUALIFICATIONS

My Curriculum Vita (resume) is attached. In summary, I have a Ph.D. in Zoology with over 30 years of university teaching experience in ecology and ornithology and appropriate research experience in each including conducting numerous wildlife surveys in Stanislaus County. I am also an ardent bird watcher who has spent many hours observing Swainson's Hawks both in California and throughout its range in the United States.

FIELD WORK

I visited the area on July 21 and 25, 2003 to both assess Swainson's Hawk foraging habitat and to determine the extent of that habitat individually, as well as collectively, in each of the four Precise Plan Areas.

DESCRIPTION OF THE AREA(S)

The four Precise Plan Areas are located at the western end of Village One, areas 2 and 17 ordering Oakdale Road to the west and extending from Sylvan Avenue on the north (area 2) to Floyd Avenue on the south (area 17). Areas 16 and 15 continue east from the eastern edge of areas 2 and 17 to the eastern boundary of Ustach Middle School, occupying approximately the middle third of the land between Sylvan and Floyd

Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17 page 2

Avenues. Table 1 indicates the acreage of each of the areas, the amount of acreage which is Swainson's Hawk foraging habitat, and the proportion of the area which is Swainson's Hawk foraging habitat. Overall, the four Precise Plan Areas include just over 176 acres of which about 116 acres (66%) is potential Swainson's Hawk foraging habitat. Below, I will discuss the specifics of each of the areas, including the apparent "quality" of the foraging habitat.

Table 1 - Total Acreage and Swainson's Hawk Foraging Habitat for Precise Plan Areas 2, 15, 16, and 17

Precise Plan Area	Total Acreage	Foraging Acreage*	% Foraging Acreage
2	45.8	23.6	52%
15	46.6	26.6	57%
16	33.5	28.2	84%
17	50.3	37.8	75%
Total	176.2	116.2	66%

* Foraging acreage includes fallow fields and low crop growth.

Precise Plan Area 2

This area contains the least amount of foraging acreage. The non-foraging areas include a block of commercial establishments at the corner of Sylvan Avenue and Oakdale Road, house lots further east along Sylvan Avenue and south along Oakdale Road, and a small vineyard (@3.3 acres) on Oakdale Road. All of the foraging area is fallow land at the present time with low scrubby grasses.

Precise Plan Area 15

This area has the next least amount of foraging acreage, due mainly to the presence of Ustach Middle School (@15.5 acres), but there is also a vineyard (@4.3 acres) to the west of the school. The potential foraging habitat includes the area to the north of the school (@6 acres) which is currently being developed as a city park. The rest of the area is currently planted in corn with the area north of the vineyard about 2 ½ feet tall (@13 acres) and that to the south of the vineyard about 6 inches tall (@ 13 acres).

Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17 page 3

Precise Plan Area 16

Just to the west of area 15, this is the only one of the four areas that does not have any human development at the present time. It is entirely agricultural with a vineyard (@5.3 acres) being the only non foraging habitat, and the rest of the land planted in corn.

Precise Plan Area 17

The northern portion of this parcel is developed as a house, outbuildings, yard, and garden (@12.5 acres). The rest of the land is recently disked fallow cropland which is Swainson's Hawk foraging habitat.

ASSESSMENT OF THE SWAINSON'S HAWK FORAGING HABITAT

Simply presenting the numbers above does not give an adequate picture of the value of this land as foraging habitat for the Swainson's Hawk. On the one hand, I have seen Swainson's Hawks in the vicinity of this land engaged in foraging behavior in the past so this land has probably been used. On the other hand, I would assess the quality of this land as Swainson's Hawk foraging habitat as low for the following reasons.

First, the preferred food of this hawk is small mammals, the predominant one in this area being the California ground squirrel. This species is present in these areas in low numbers but only on higher ground (such as the dirt track running from Hillglen Avenue south on the west side of Ustach Middle School to the south end of the school and then turning east as the southern boundary of areas 15 and 16) because their burrows are destroyed in the lower areas that are plowed and flood irrigated. In less intensively cultivated areas, ground squirrels occur at much higher densities.

Second, since this land is surrounded by urban areas including housing developments, schools, and commercial establishments with a lot of automobile traffic on the roads and people walking through the area, the hawks are much more likely to be disturbed while foraging and feeding which may drastically reduce the foraging efficiency for the species. Such reductions in foraging efficiency have been shown to result in nest failure or nest abandonment by the parents.

Finally, the close proximity to many humans and their activities establishes the possibility of inadvertent poisoning of the hawks if people are intentionally or even unintentionally introducing toxic substances into the food chain. Poisons put out for rats, mice, and squirrels have been shown to be ingested by raptors causing illness, sterility, and/or death (this was one of the major causes of the decline in California condors in the 1980's). Substances like antifreeze, while not meant to kill anything, may also be ingested by the hawks be fatal.

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Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17 page 4

Thus, in summary, although almost two-thirds of the acreage of these four Precise Plan Areas is technically foraging habitat for the Swainson's Hawk at one time or another, the quality of this foraging habitat is so low that its loss to the hawks will have no significant impact on the species' population. I do not think that mitigation is called for.

Sincerely,



Walter Fordoff, Ph.D.
Professor Emeritus of Biology

Curriculum Vitae attached

CURRICULUM VITAE

WALTER TORDOFF III
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California State University, Stanislaus

Address

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Professional Expertise

Ecology, Ornithology, Herpetology, Vertebrate Ecology, Population Biology,
Evolution, Genetics.

Academic Degrees

Ph.D. - Colorado State University, Fort Collins. 1971. Major: Zoology. Area of specialization: Vertebrate Ecology. Dissertation: Environmental factors affecting gene frequencies in montane populations of the chorus frog, *Pseudacris triseriata*.

M.S. - Colorado State University, Fort Collins. 1967. Major: Zoology. Area of specialization: Vertebrate Population Genetics. Thesis: Microgeographic variation in gene frequencies in the chorus frog.

B.A. - University of Massachusetts, Amherst. 1965. Major: Zoology

Professional Experience

Professor Emeritus of Biology, Department of Biological Sciences, California State University, Stanislaus, 2001 to present.

Professor of Biology, Department of Biological Sciences, California State University, Stanislaus, 1981-2001. Department Chairman 1981-1990.

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Associate Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1975-1981.

Assistant Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1970-1975.

Papers Presented or Published

1971. Tordoff, W. III, and David Pettus. Amphibians and Reptiles of North-central Colorado. Chapter 7 In: C.L. Mahoney (ed.). Manual for Natural Resource Ecology. College of Forestry and Natural Resources. Colorado State University, Fort Collins.
1976. Tordoff, W. III, D. Pettus, and T.C. Matthews. Microgeographic variation in gene frequencies in *Pseudacris triseriata* (Amphibia, Anura, Hylidae). *Journal of Herpetology* 10:35-40.
1977. Tordoff, W. III, and D. Pettus. Temporal stability of phenotypic frequencies in *Pseudacris triseriata* (Amphibia, Anura, Hylidae). *Journal of Herpetology* 11:161-168.
1980. Tordoff, W. III. Selective predation of gray jays, *Perisoreus canadensis*, upon boreal chorus frogs, *Pseudacris triseriata*. *Evolution* 34:1004-1008.
1981. Tordoff, W. III. Population and habitat surveys of the limestone salamander in Mariposa County. Presented at the annual meeting of the Western Section of the Wildlife Society, San Luis Obispo, CA.
- 1987a. Tordoff, W. III. Population biology of the limestone salamander, *Hydromantes brunus* (Caudata, Plethodontidae). Presented at "Endangered and Sensitive Species of the San Joaquin Valley, California" conference, Dec. CSU, Bakersfield.
- 1987b. Tordoff, W. III. Habitat requirements of the limestone salamander, *Hydromantes brunus* (Caudata, Plethodontidae). Presented at "Endangered and Sensitive Species of the San Joaquin Valley, California" conference, Dec. CSU, Bakersfield.
1990. Tordoff, W. III, D. Germano, and D.F. Williams. The status of the blunt-nosed leopard lizard on the Elkhorn Plain Ecological Reserve. Presented at Southern California Academy of Sciences annual meeting, CSU, Dominguez Hills.
1994. Germano, D.G., D.F. Williams, and W. Tordoff, III. Effect of drought on blunt-nosed leopard lizards (*Gambelia sila*). *Northwestern Naturalist*, 75:11-19.

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Papers Presented or Published (continued)

1997. Williams, D.F., W. Tordoff, III, and D. Germano. Evaluation of methods for permanently marking kangaroo rats (*Dipodomys*: Heteromyidae). Spec. Pub. Museum Southwestern Biology 3:259-271.

Wildlife Surveys Completed

1981. Tordoff, W. III. Population and habitat survey of the limestone salamander in Mariposa County. Prepared for the Bureau of Land Management, Folsom, CA Office.

1986a. Williams, D. F., and W. Tordoff III. Martin Ranch endangered wildlife survey. Calif. Dept. Parks and Recreation, Sacramento. 22pp.

1986b. Williams, D.F., and W. Tordoff III. Kettleman Hills wildlife survey. California Dept. General Services, FP6-3100.23, 14 pp.

1987. Tordoff, W. III, and D.F. Williams. San Joaquin Valley conveyance project presurvey wildlife assessment. J.M. Montgomery consulting engineers, Inc. Walnut Creek, California, 25 pp.

1988. Williams, D.F., and W. Tordoff III. Operations and maintenance schedule: Elkhorn Plain Ecological Reserve, San Luis Obispo County, California. California Dept. Fish and Game, Nongame Heritage Program, Sacramento, Final Report, 71pp.

1988. Williams, D.F., W. Tordoff III, and J.H. Harris. San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) study - 1988. California Dept. Fish and Game, Wildlife Management Division., Endangered Species Wildlife Program, Contract Final Report, 62 pp.

1989. Williams, D.F., D. Germano, and W. Tordoff III. Effects of livestock grazing on an endangered community dominated by giant kangaroo rats (*Dipodomys ingens*). Pp 1-32 In: Endangered Species Study - 1989 (D.F. Williams *et. al.*). California Dept. Fish and Game., Sacramento, FG-8391, 83 pp.

1990. Williams, D.F., D.G. Germano, and W. Tordoff, III. Endangered species study - 1990: Effect of livestock grazing on an endangered species community dominated by giant kangaroo rats (*Dipodomys ingens*). California Dept. Fish and Game., Sacramento.

1998a. Tordoff, W., Wildlife survey for proposed Connor Estates peninsula. Mid-Valley Engineering.

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Wildlife Surveys Completed (continued)

- 1998b. Tordoff, W., Wildlife Survey - A.P.N. 75-11-24. Hayes Development, Inc.
- 1998c. Tordoff, W., Wildlife Survey - A.P.N. 75-11-27. Groen/Winters Group.
- 1998d. Tordoff, W. Wildlife Survey - Crossroads Community Development - South of Morrill Rd., A.P.N. 75-13-07 and 75-13-08. Groen/Winters Group.
1999. Tordoff, W. Wildlife Survey - Crossroads Community Development - South of Morrill Rd., A.P.N. 75-13-01, 75-13-02, and 75-13-03. Robert Braden Consulting.
- 2001a. Tordoff, W. Wildlife Survey - A.P.N. 75-13-04, A.P.N. 75-13-16, A.P.N. 75-13-17, & A.P.N. 75-14-02 East of Oakdale Rd. Mid-valley Engineering.
- 2001b. Tordoff, W. Wildlife Survey - A.P.N. 75-13-15 & A.P.N. 75-14-22 along Roselle Rd. Bright Development.
- 2001c. Tordoff, W. Wildlife Survey - A.P.N. 75-14-21, Glow Rd., Bennett Development, Inc.
- 2001d. Tordoff, W. Wildlife Survey - A.P.N. 75-14-10, A.P.N. 75-14-14, & A.P.N. 75-14-15, along Glow Rd., Mid-Valley Engineering.
2002. Tordoff, W. City of Riverbank, California. Jacob Myers Trail Project - Biological Assessment and Habitat Restoration Component. Planning Partners, Elk Grove, CA.
- 2002b. Tordoff, W. Preconstruction Burrowing Owl Survey - A.P.N's 75-13-04, 75-13-15, 75-13-16, 75-13-17, 75-14-02, 75-14-10, 75-14-14, 75-14-15, 75-14,21, &75-14-22. Mid-Valley Engineering.
- 2002c. Tordoff, W. Biological Assessment - Riverbank Wastewater Plant Percolation Pond Expansion Project APN 2470250-20 (San Joaquin County) and Reinforcement of North Dike of Existing Plant Project A.P.N's 240-250-04 & 247-260-02. Planning Partners, Elk Grove, CA.
- 2003a. Tordoff, W. Biological Assessment - Charles Street Improvements - CML-5411(004). City of Hughson, California.
- 2003b. Tordoff, W. Wetlands Delineation Study - APN 75-14-04. Browman Development Company, Inc., Oakland, CA

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Wildlife Surveys Completed (continued)

2003c. Tordoff, W. Wetlands/Wildlife Survey - Hughes' Riverbank Annexation.
Benchmark Engineering, Oakdale, CA

2003d. Tordoff, W. Vernal Pool Survey - Galas Property. Russell A. Newman, P.L.C.,
Modesto, CA

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-579**

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: PRECISE PLAN FOR AREA NO. 15 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE NORTHWEST CORNER OF KODIAK DRIVE AND BEAR CUB LANE IN THE VILLAGE ONE SPECIFIC PLAN AREA (RONALD L. LaFORCE ET AL., MODESTO VENTURE 168, AND CHRIS & PAULINE GIANULIAS)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Ronald L. LaForce et al., Modesto Venture 168, and Chris & Pauline Gianulias for a Precise Plan for Area No. 15, property located at the northwest corner of Kodaik Drive and Bear Cub Lane, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, and

WHEREAS, the City’s Community and 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-78, 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

WHEREAS, the Planning Commission, by Resolution No. 2003-52, adopted on September 8, 2003, and City staff, by a report dated October 1, 2003, from the Community and Economic Development Department, recommended to the City Council approval of Precise Plan No. 15 of the Village One Specific Plan, and recommended approval of an Amendment to Section 11-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located at the northwest corner of Kodiak Drive and Bear Cub Lane, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 28, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," for the proposed project, and the Council hereby makes the following findings:

1. The proposed Precise Plan and rezoning are consistent with the Village One Specific Plan and Modesto Urban Area General Plan.
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 Village One Program EIR, as amended by the 1994 Supplemental 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 Village One Program EIR, as amended by the 1994 Supplemental EIR, are required.
4. 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.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-78, provides the substantial evidence to support findings 2-4 noted above.

BE IT FURTHER RESOLVED that a copy of said Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," 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 28th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

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

EXHIBIT "A"
INITIAL STUDY
EA/C&ED NO. 2003-78

**Determination:
Projects within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for
Precise Plans 2, 15, 16, & 17**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Brad Wall
(209) 577-5282

Prepared by:

Brad Wall, Associate Planner
City of Modesto
Community & Economic Development Department
(209) 577-5267

August 22, 2003

WRITTEN CHECKLIST

EA/C&ED No. 2003-78

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Section 15182 of the CEQA Guidelines allows the approval of subsequent residential projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- (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.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

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 Areas 2, 15, 16, & 17
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Brad Wall, Associate Planner
Modesto Community & Economic Development
Department
(209) 577-5267
4. **Project Location:** Between Sylvan and Floyd Avenues east of
Oakdale Road - Modesto, California
5. **Project Sponsor's Name and Address:** Ronald L. LaForce (et al)
P.O. Box 814
Modesto CA 95353
6. **General Plan Designation:** The General Plan land use designation for the
project site is: Village Residential (VR). This
designation allows the zoning & land uses
described within the proposed Precise Plans.
7. **Zoning:** Specific Plan Holding (SP-H)
8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the project
applicant proposes a total of approximately 625 single-family lots within the four Precise
Plans (see attached diagram).
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 largely by undeveloped land, which is designated by the Specific Plan for

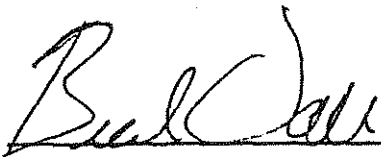
residential development. A mix of residential and commercial zoning and land surround the project site.

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 15182 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.



Project Manager

August 22, 2003

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 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 projects. 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 development 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 projects 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 additional 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant has hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson's Hawk. The biologist's report is attached. There would be no additional impact. No additional 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Strong seismic groundshaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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IX. LAND USE AND PLANNING. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.
- 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	Less-than- Significant Impact	No Impact
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Displace a substantial number of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Cause, either individually or cumulatively, exceedance of a LOS standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Result in a change in air traffic patterns, including an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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.

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.

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 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."

2. The following statement shall be placed in all Precise Plans for Residential Development:

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.

3. Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Floyd Avenue (from Oakdale Road to Roselle Avenue): 106 ft.

Oakdale Road (from Sylvan Avenue to Floyd Avenue): 214 ft.

Source: Brown-Buntin Associates Noise Study, April 1993

4. "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."

5. 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.

SWAINSON'S HAWK FORAGING HABITAT SURVEY
VILLAGE ONE
Precise Plan Areas 2, 15, 16, and 17

Prepared for:
ASSOCIATED ENGINEERING GROUP, INC.
4206 Technology Drive
Modesto, CA 95356

Prepared by:
WALTER TORDOFF, Ph.D.
Professor Emeritus of Biology
Department of Biological Sciences
California State University, Stanislaus
801 W. Monte Vista Ave.
Turlock, CA 95382

July 25, 2003

INTRODUCTION

Swainson's Hawk, *Buteo swainsoni*, is a species of large hawk which nests in the Central Valley of California. It is a California state listed threatened species and thus it is protected, as is its nesting and foraging habitat. The large Village One development in Modesto, California has been divided into 35 "Precise Plan Areas". An earlier study had identified, in general terms, possible Swainson's Hawk foraging habitat within this development. This study was undertaken to assess the foraging habitat for Swainson's Hawk in four of the Precise Plan Areas (2, 15, 16, and 17). Swainson's Hawks forage for food in a prescribed manner. As is typical of a number of other large hawks, they forage during the daylight hours by soaring high above the ground and watching for suitable prey (mostly small mammals such as mice and ground squirrels, but also large insects like grasshoppers). Once prey is spotted the bird dives to the ground to capture it. Thus suitable foraging habitat must be relatively clear of high vegetation for two reasons: to allow the hawk to see the prey, and to allow the hawk to swoop down upon it without hitting branches or other high vegetation. Thus, open fields and low growing croplands are suitable but orchards, vineyards, and tall crops (mature corn) are not. Corn fields thus present different situations at different stages. Until the corn plants exceed a certain height (1-2 feet) the fields are suitable for foraging. Taller than that, they are not, but once cut down, they are suitable again. Since the Swainson's Hawk is only present in the Central Valley during Spring and Summer and nesting occurs predominantly from April through July, it is the condition of the fields at that time which is most important.

QUALIFICATIONS

My Curriculum Vita (resume) is attached. In summary, I have a Ph.D. in Zoology with over 30 years of university teaching experience in ecology and ornithology and appropriate research experience in each including conducting numerous wildlife surveys in Stanislaus County. I am also an ardent bird watcher who has spent many hours observing Swainson's Hawks both in California and throughout its range in the United States.

FIELD WORK

I visited the area on July 21 and 25, 2003 to both assess Swainson's Hawk foraging habitat and to determine the extent of that habitat individually, as well as collectively, in each of the four Precise Plan Areas.

DESCRIPTION OF THE AREA(S)

The four Precise Plan Areas are located at the western end of Village One, areas 2 and 17 ordering Oakdale Road to the west and extending from Sylvan Avenue on the north (area 2) to Floyd Avenue on the south (area 17). Areas 16 and 15 continue east from the eastern edge of areas 2 and 17 to the eastern boundary of Ustach Middle School, occupying approximately the middle third of the land between Sylvan and Floyd

Avenues. Table 1 indicates the acreage of each of the areas, the amount of acreage which is Swainson's Hawk foraging habitat, and the proportion of the area which is Swainson's Hawk foraging habitat. Overall, the four Precise Plan Areas include just over 176 acres of which about 116 acres (66%) is potential Swainson's Hawk foraging habitat. Below, I will discuss the specifics of each of the areas, including the apparent "quality" of the foraging habitat.

Table 1 - Total Acreage and Swainson's Hawk Foraging Habitat for Precise Plan Areas 2, 15, 16, and 17

Precise Plan Area	Total Acreage	Foraging Acreage*	% Foraging Acreage
2	45.8	23.6	52%
15	46.6	26.6	57%
16	33.5	28.2	84%
17	50.3	37.8	75%
Total	176.2	116.2	66%

* Foraging acreage includes fallow fields and low crop growth.

Precise Plan Area 2

This area contains the least amount of foraging acreage. The non-foraging areas include a block of commercial establishments at the corner of Sylvan Avenue and Oakdale Road, house lots further east along Sylvan Avenue and south along Oakdale Road, and a small vineyard (@3.3 acres) on Oakdale Road. All of the foraging area is fallow land at the present time with low scrubby grasses.

Precise Plan Area 15

This area has the next least amount of foraging acreage, due mainly to the presence of Ustach Middle School (@15.5 acres), but there is also a vineyard (@4.3 acres) to the west of the school. The potential foraging habitat includes the area to the north of the school (@6 acres) which is currently being developed as a city park. The rest of the area is currently planted in corn with the area north of the vineyard about 2 ½ feet tall (@13 acres) and that to the south of the vineyard about 6 inches tall (@ 13 acres).

Precise Plan Area 16

Just to the west of area 15, this is the only one of the four areas that does not have any human development at the present time. It is entirely agricultural with a vineyard (@5.3 acres) being the only non foraging habitat, and the rest of the land planted in corn.

Precise Plan Area 17

The northern portion of this parcel is developed as a house, outbuildings, yard, and garden (@12.5 acres). The rest of the land is recently disked fallow cropland which is Swainson's Hawk foraging habitat.

ASSESSMENT OF THE SWAINSON'S HAWK FORAGING HABITAT

Simply presenting the numbers above does not give an adequate picture of the value of this land as foraging habitat for the Swainson's Hawk. On the one hand, I have seen Swainson's Hawks in the vicinity of this land engaged in foraging behavior in the past so this land has probably been used. On the other hand, I would assess the quality of this land as Swainson's Hawk foraging habitat as low for the following reasons.

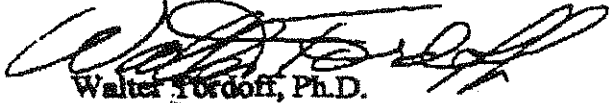
First, the preferred food of this hawk is small mammals, the predominant one in this area being the California ground squirrel. This species is present in these areas in low numbers but only on higher ground (such as the dirt track running from Hillglen Avenue south on the west side of Ustach Middle School to the south end of the school and then turning east as the southern boundary of areas 15 and 16) because their burrows are destroyed in the lower areas that are plowed and flood irrigated. In less intensively cultivated areas, ground squirrels occur at much higher densities.

Second, since this land is surrounded by urban areas including housing developments, schools, and commercial establishments with a lot of automobile traffic on the roads and people walking through the area, the hawks are much more likely to be disturbed while foraging and feeding which may drastically reduce the foraging efficiency for the species. Such reductions in foraging efficiency have been shown to result in nest failure or nest abandonment by the parents.

Finally, the close proximity to many humans and their activities establishes the possibility of inadvertent poisoning of the hawks if people are intentionally or even unintentionally introducing toxic substances into the food chain. Poisons put out for rats, mice, and squirrels have been shown to be ingested by raptors causing illness, sterility, and/or death (this was one of the major causes of the decline in California condors in the 1980's). Substances like antifreeze, while not meant to kill anything, may also be ingested by the hawks be fatal.

Thus, in summary, although almost two-thirds of the acreage of these four Precise Plan Areas is technically foraging habitat for the Swainson's Hawk at one time or another, the quality of this foraging habitat is so low that its loss to the hawks will have no significant impact on the species' population. I do not think that mitigation is called for.

Sincerely,



Walter Fordoff, Ph.D.
Professor Emeritus of Biology

Curriculum Vitae attached

CURRICULUM VITAE

WALTER TORDOFF III
Professor Emeritus of Biology
Department of Biological Sciences
California State University, Stanislaus

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(209) 667-3480 or 667-3476
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(209) 632-4495

Professional Expertise

Ecology, Ornithology, Herpetology, Vertebrate Ecology, Population Biology,
Evolution, Genetics.

Academic Degrees

Ph.D. - Colorado State University, Fort Collins. 1971. Major: Zoology. Area of specialization: Vertebrate Ecology. Dissertation: Environmental factors affecting gene frequencies in montane populations of the chorus frog, *Pseudacris triseriata*.

M.S. - Colorado State University, Fort Collins. 1967. Major: Zoology. Area of specialization: Vertebrate Population Genetics. Thesis: Microgeographic variation in gene frequencies in the chorus frog.

B.A. - University of Massachusetts, Amherst. 1965. Major: Zoology

Professional Experience

Professor Emeritus of Biology, Department of Biological Sciences, California State University, Stanislaus, 2001 to present.

Professor of Biology, Department of Biological Sciences, California State University, Stanislaus, 1981-2001. Department Chairman 1981-1990.

Associate Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1975-1981.

Assistant Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1970-1975.

Papers Presented or Published

1971. Tordoff, W. III, and David Pettus. Amphibians and Reptiles of North-central Colorado. Chapter 7 In: C.L. Mahoney (ed.) Manual for Natural Resource Ecology. College of Forestry and Natural Resources. Colorado State University, Fort Collins.
1976. Tordoff, W. III, D. Pettus, and T.C. Matthews. Microgeographic variation in gene frequencies in *Pseudacris triseriata* (Amphibia, Anura, Hylidae). *Journal of Herpetology* 10:35-40.
1977. Tordoff, W. III, and D. Pettus. Temporal stability of phenotypic frequencies in *Pseudacris triseriata* (Amphibia, Anura, Hylidae). *Journal of Herpetology* 11:161-168.
1980. Tordoff, W. III. Selective predation of gray jays, *Perisoreus canadenis*, upon boreal chorus frogs, *Pseudacris triseriata*. *Evolution* 34:1004-1008.
1981. Tordoff, W. III. Population and habitat surveys of the limestone salamander in Mariposa County. Presented at the annual meeting of the Western Section of the Wildlife Society, San Luis Obispo, CA.
- 1987a. Tordoff, W. III. Population biology of the limestone salamander, *Hydromantes brunus* (Caudata, Plethodontidae). Presented at "Endangered and Sensitive Species of the San Joaquin Valley, California" conference, Dec. CSU, Bakersfield.
- 1987b. Tordoff, W. III. Habitat requirements of the limestone salamander, *Hydromantes brunus* (Caudata, Plethodontidae). Presented at "Endangered and Sensitive Species of the San Joaquin Valley, California" conference, Dec. CSU, Bakersfield.
1990. Tordoff, W. III., D. Germano, and D.F. Williams. The status of the blunt-nosed leopard lizard on the Elkhorn Plain Ecological Reserve. Presented at Southern California Academy of Sciences annual meeting, CSU, Dominguez Hills.
1994. Germano, D.G., D.F. Williams, and W. Tordoff, III. Effect of drought on blunt-nosed leopard lizards (*Gambelia sila*). *Northwestern Naturalist*, 75:11-19.

Papers Presented or Published (continued)

1997. Williams, D.F., W. Tordoff, III, and D. Germano. Evaluation of methods for permanently marking kangaroo rats (*Dipodomys*: Heteromyidae). Spec. Pub. Museum Southwestern Biology 3:259-271.

Wildlife Surveys Completed

1981. Tordoff, W. III. Population and habitat survey of the limestone salamander in Mariposa County. Prepared for the Bureau of Land Management, Folsom, CA Office.
- 1986a. Williams, D. F., and W. Tordoff III. Martin Ranch endangered wildlife survey. Calif. Dept. Parks and Recreation, Sacramento. 22pp.
- 1986b. Williams, D.F., and W. Tordoff III. Kettleman Hills wildlife survey. California Dept. General Services, FP6-3100.23, 14 pp.
1987. Tordoff, W. III, and D.F. Williams. San Joaquin Valley conveyance project presurvey wildlife assessment. J.M. Montgomery consulting engineers, Inc. Walnut Creek, California, 25 pp.
1988. Williams, D.F., and W. Tordoff III. Operations and maintenance schedule: Elkhorn Plain Ecological Reserve, San Luis Obispo County, California. California Dept. Fish and Game, Nongame Heritage Program, Sacramento, Final Report, 71pp.
1988. Williams, D.F., W. Tordoff III, and J.H. Harris. San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) study - 1988. California Dept. Fish and Game, Wildlife Management Division., Endangered Species Wildlife Program, Contract Final Report, 62 pp.
1989. Williams, D.F., D. Germano, and W. Tordoff III. Effects of livestock grazing on an endangered community dominated by giant kangaroo rats (*Dipodomys ingens*). Pp 1-32 In: Endangered Species Study - 1989 (D.F. Williams *et. al.*). California Dept. Fish and Game., Sacramento, FG-8391, 83 pp.
1990. Williams, D.F., D.G. Germano, and W. Tordoff, III. Endangered species study - 1990: Effect of livestock grazing on an endangered species community dominated by giant kangaroo rats (*Dipodomys ingens*). California Dept. Fish and Game., Sacramento.
- 1998a. Tordoff, W., Wildlife survey for proposed Connor Estates peninsula. Mid-Valley Engineering.

Wildlife Surveys Completed (continued)

- 1998b. Tordoff, W., Wildlife Survey - A.P.N. 75-11-24. Hayes Development, Inc.
- 1998c. Tordoff, W., Wildlife Survey - A.P.N. 75-11-27. Groen/Winters Group.
- 1998d. Tordoff, W. Wildlife Survey - Crossroads Community Development - South of Morrill Rd., A.P.N. 75-13-07 and 75-13-08. Groen/Winters Group.
1999. Tordoff, W. Wildlife Survey - Crossroads Community Development - South of Morrill Rd., A.P.N. 75-13-01, 75-13-02, and 75-13-03. Robert Braden Consulting.
- 2001a. Tordoff, W. Wildlife Survey - A.P.N. 75-13-04, A.P.N. 75-13-16, A.P.N. 75-13-17, & A.P.N. 75-14-02 East of Oakdale Rd. Mid-valley Engineering.
- 2001b. Tordoff, W. Wildlife Survey - A.P.N. 75-13-15 & A.P.N. 75-14-22 along Roselle Rd. Bright Development.
- 2001c. Tordoff, W. Wildlife Survey - A.P.N. 75-14-21, Glow Rd., Bennett Development, Inc.
- 2001d. Tordoff, W. Wildlife Survey - A.P.N. 75-14-10, A.P.N. 75-14-14, & A.P.N. 75-14-15, along Glow Rd., Mid-Valley Engineering.
2002. Tordoff, W. City of Riverbank, California. Jacob Myers Trail Project - Biological Assessment and Habitat Restoration Component. Planning Partners, Elk Grove, CA.
- 2002b. Tordoff, W. Preconstruction Burrowing Owl Survey - A.P.N's 75-13-04, 75-13-15, 75-13-16, 75-13-17, 75-14-02, 75-14-10, 75-14-14, 75-14-15, 75-14,21, &75-14-22. Mid-Valley Engineering.
- 2002c. Tordoff, W. Biological Assessment - Riverbank Wastewater Plant Percolation Pond Expansion Project APN 2470250-20 (San Joaquin County) and Reinforcement of North Dike of Existing Plant Project A.P.N's 240-250-04 & 247-260-02. Planning Partners, Elk Grove, CA.
- 2003a. Tordoff, W. Biological Assessment - Charles Street Improvements - CML-5411(004). City of Hughson, California.
- 2003b. Tordoff, W. Wetlands Delineation Study - APN 75-14-04. Browman Development Company, Inc., Oakland, CA

Wildlife Surveys Completed (continued)

2003c. Tordoff, W. Wetlands/Wildlife Survey - Hughes' Riverbank Annexation.
Benchmark Engineering, Oakdale, CA

2003d. Tordoff, W. Vernal Pool Survey - Galas Property. Russell A. Newman, P.L.C.,
Modesto, CA

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-580**

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: PRECISE PLAN FOR AREA NO. 16 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED IMMEDIATELY EAST OF THE CONVERGENCE OF HILLGLEN AVENUE AND KODIAK DRIVE IN THE VILLAGE ONE SPECIFIC PLAN AREA (RONALD L. LaFORCE ET AL., MODESTO VENTURE 168, AND CHRIS & PAULINE GIANULIAS)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Ronald L. LaForce, Modesto Venture 168, and Chris & Pauline Gianulias, et al, for a Precise Plan for Area No. 16, property located immediately east of the convergence of Hillglen Avenue and Kodiak Drive, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, and

WHEREAS, the City's Community and 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-78, 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

WHEREAS, the Planning Commission, by Resolution No. 2003-53, adopted on September 8, 2003, and City staff, by a report dated October 1, 2003, from the Community and Economic Development Department, recommended to the City Council approval of Precise Plan No. 16 of the Village One Specific Plan, and recommended approval of an Amendment to Section 11-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located immediately east of the convergence of Hillglen Avenue and Kodiak Drive, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 28, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," for the proposed project, and the Council hereby makes the following findings:

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

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 Village One Program EIR, as amended by the 1994 Supplemental 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 Village One Program EIR, as amended by the 1994 Supplemental EIR, are required.
4. 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.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-78, provides the substantial evidence to support findings 2-4 noted above.

BE IT FURTHER RESOLVED that a copy of said Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," 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 28th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers	None
ABSENT:	Councilmembers	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

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

EXHIBIT "A"
INITIAL STUDY
EA/C&ED NO. 2003-78

**Determination:
Projects within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for
Precise Plans 2, 15, 16, & 17**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Brad Wall
(209) 577-5282

Prepared by:

Brad Wall, Associate Planner
City of Modesto
Community & Economic Development Department
(209) 577-5267

August 22, 2003

WRITTEN CHECKLIST

EA/C&ED No. 2003-78

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Section 15182 of the CEQA Guidelines allows the approval of subsequent residential projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- (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.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

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 Areas 2, 15, 16, & 17
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Brad Wall, Associate Planner
Modesto Community & Economic Development
Department
(209) 577-5267
4. **Project Location:** Between Sylvan and Floyd Avenues east of
Oakdale Road - Modesto, California
5. **Project Sponsor's Name and Address:** Ronald L. LaForce (et al)
P.O. Box 814
Modesto CA 95353
6. **General Plan Designation:** The General Plan land use designation for the
project site is: Village Residential (VR). This
designation allows the zoning & land uses
described within the proposed Precise Plans.
7. **Zoning:** Specific Plan Holding (SP-H)
8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the project
applicant proposes a total of approximately 625 single-family lots within the four Precise
Plans (see attached diagram).
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 largely by undeveloped land, which is designated by the Specific Plan for

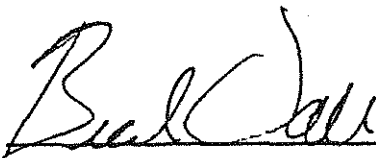
residential development. A mix of residential and commercial zoning and land surround the project site.

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 15182 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.



August 22, 2003

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 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 projects. 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 development 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 projects 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 additional 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant has hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson's Hawk. The biologist's report is attached. There would be no additional impact. No additional 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Strong seismic groundshaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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VIII. HYDROLOGY AND WATER QUALITY.

Would the project:

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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IX. LAND USE AND PLANNING. Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.
- 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	Less-than- Significant Impact	No Impact
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Displace a substantial number of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause, either individually or cumulatively, exceedance of a LOS standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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XVI. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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.

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.

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 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."

2. The following statement shall be placed in all Precise Plans for Residential Development:

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.

3. Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Floyd Avenue (from Oakdale Road to Roselle Avenue): 106 ft.

Oakdale Road (from Sylvan Avenue to Floyd Avenue): 214 ft.

Source: Brown-Buntin Associates Noise Study, April 1993

4. "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."

5. 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.

SWAINSON'S HAWK FORAGING HABITAT SURVEY
VILLAGE ONE
Precise Plan Areas 2, 15, 16, and 17

Prepared for:
ASSOCIATED ENGINEERING GROUP, INC.
4206 Technology Drive
Modesto, CA 95356

Prepared by:
WALTER TORDOFF, Ph.D.
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Department of Biological Sciences
California State University, Stanislaus
801 W. Monte Vista Ave.
Turlock, CA 95382

July 25, 2003

INTRODUCTION

Swainson's Hawk, *Buteo swainsoni*, is a species of large hawk which nests in the Central Valley of California. It is a California state listed threatened species and thus it is protected, as is its nesting and foraging habitat. The large Village One development in Modesto, California has been divided into 35 "Precise Plan Areas". An earlier study had identified, in general terms, possible Swainson's Hawk foraging habitat within this development. This study was undertaken to assess the foraging habitat for Swainson's Hawk in four of the Precise Plan Areas (2, 15, 16, and 17). Swainson's Hawks forage for food in a prescribed manner. As is typical of a number of other large hawks, they forage during the daylight hours by soaring high above the ground and watching for suitable prey (mostly small mammals such as mice and ground squirrels, but also large insects like grasshoppers). Once prey is spotted the bird dives to the ground to capture it. Thus suitable foraging habitat must be relatively clear of high vegetation for two reasons: to allow the hawk to see the prey; and to allow the hawk to swoop down upon it without hitting branches or other high vegetation. Thus, open fields and low growing croplands are suitable but orchards, vineyards, and tall crops (mature corn) are not. Corn fields thus present different situations at different stages. Until the corn plants exceed a certain height (1-2 feet) the fields are suitable for foraging. Taller than that, they are not, but once cut down, they are suitable again. Since the Swainson's Hawk is only present in the Central Valley during Spring and Summer and nesting occurs predominantly from April through July, it is the condition of the fields at that time which is most important.

QUALIFICATIONS

My Curriculum Vita (resume) is attached. In summary, I have a Ph.D. in Zoology with over 30 years of university teaching experience in ecology and ornithology and appropriate research experience in each including conducting numerous wildlife surveys in Stanislaus County. I am also an ardent bird watcher who has spent many hours observing Swainson's Hawks both in California and throughout its range in the United States.

FIELD WORK

I visited the area on July 21 and 25, 2003 to both assess Swainson's Hawk foraging habitat and to determine the extent of that habitat individually, as well as collectively, in each of the four Precise Plan Areas.

DESCRIPTION OF THE AREA(S)

The four Precise Plan Areas are located at the western end of Village One, areas 2 and 17 ordering Oakdale Road to the west and extending from Sylvan Avenue on the north (area 2) to Floyd Avenue on the south (area 17). Areas 16 and 15 continue east from the eastern edge of areas 2 and 17 to the eastern boundary of Ustach Middle School, occupying approximately the middle third of the land between Sylvan and Floyd

Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17 page 2

Avenues. Table 1 indicates the acreage of each of the areas, the amount of acreage which is Swainson's Hawk foraging habitat, and the proportion of the area which is Swainson's Hawk foraging habitat. Overall, the four Precise Plan Areas include just over 176 acres of which about 116 acres (66%) is potential Swainson's Hawk foraging habitat. Below, I will discuss the specifics of each of the areas, including the apparent "quality" of the foraging habitat.

Table 1 - Total Acreage and Swainson's Hawk Foraging Habitat for Precise Plan Areas 2, 15, 16, and 17

Precise Plan Area	Total Acreage	Foraging Acreage*	% Foraging Acreage
2	45.8	23.6	52%
15	46.6	26.6	57%
16	33.5	28.2	84%
17	50.3	37.8	75%
Total	176.2	116.2	66%

* Foraging acreage includes fallow fields and low crop growth.

Precise Plan Area 2

This area contains the least amount of foraging acreage. The non-foraging areas include a block of commercial establishments at the corner of Sylvan Avenue and Oakdale Road, house lots further east along Sylvan Avenue and south along Oakdale Road, and a small vineyard (@3.3 acres) on Oakdale Road. All of the foraging area is fallow land at the present time with low scrubby grasses.

Precise Plan Area 15

This area has the next least amount of foraging acreage, due mainly to the presence of Ustach Middle School (@15.5 acres), but there is also a vineyard (@4.3 acres) to the west of the school. The potential foraging habitat includes the area to the north of the school (@6 acres) which is currently being developed as a city park. The rest of the area is currently planted in corn with the area north of the vineyard about 2 ½ feet tall (@13 acres) and that to the south of the vineyard about 6 inches tall (@ 13 acres).

Precise Plan Area 16

Just to the west of area 15, this is the only one of the four areas that does not have any human development at the present time. It is entirely agricultural with a vineyard (@5.3 acres) being the only non foraging habitat, and the rest of the land planted in corn.

Precise Plan Area 17

The northern portion of this parcel is developed as a house, outbuildings, yard, and garden (@12.5 acres). The rest of the land is recently disked fallow cropland which is Swainson's Hawk foraging habitat.

ASSESSMENT OF THE SWAINSON'S HAWK FORAGING HABITAT

Simply presenting the numbers above does not give an adequate picture of the value of this land as foraging habitat for the Swainson's Hawk. On the one hand, I have seen Swainson's Hawks in the vicinity of this land engaged in foraging behavior in the past so this land has probably been used. On the other hand, I would assess the quality of this land as Swainson's Hawk foraging habitat as low for the following reasons.

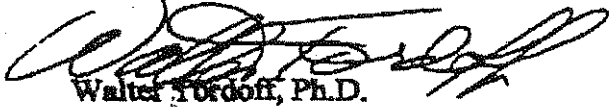
First, the preferred food of this hawk is small mammals, the predominant one in this area being the California ground squirrel. This species is present in these areas in low numbers but only on higher ground (such as the dirt track running from Hillglen Avenue south on the west side of Ustach Middle School to the south end of the school and then turning east as the southern boundary of areas 15 and 16) because their burrows are destroyed in the lower areas that are plowed and flood irrigated. In less intensively cultivated areas, ground squirrels occur at much higher densities.

Second, since this land is surrounded by urban areas including housing developments, schools, and commercial establishments with a lot of automobile traffic on the roads and people walking through the area, the hawks are much more likely to be disturbed while foraging and feeding which may drastically reduce the foraging efficiency for the species. Such reductions in foraging efficiency have been shown to result in nest failure or nest abandonment by the parents.

Finally, the close proximity to many humans and their activities establishes the possibility of inadvertent poisoning of the hawks if people are intentionally or even unintentionally introducing toxic substances into the food chain. Poisons put out for rats, mice, and squirrels have been shown to be ingested by raptors causing illness, sterility, and/or death (this was one of the major causes of the decline in California condors in the 1980's). Substances like antifreeze, while not meant to kill anything, may also be ingested by the hawks be fatal.

Thus, in summary, although almost two-thirds of the acreage of these four Precise Plan Areas is technically foraging habitat for the Swainson's Hawk at one time or another, the quality of this foraging habitat is so low that its loss to the hawks will have no significant impact on the species' population. I do not think that mitigation is called for.

Sincerely,



Walter Fordoff, Ph.D.
Professor Emeritus of Biology

Curriculum Vitae attached

JUL 20 2003 01:30 P.007011 F-211

CURRICULUM VITAE

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Professional Expertise

Ecology, Ornithology, Herpetology, Vertebrate Ecology, Population Biology,
Evolution, Genetics.

Academic Degrees

Ph.D. - Colorado State University, Fort Collins. 1971. Major: Zoology. Area of specialization: Vertebrate Ecology. Dissertation: Environmental factors affecting gene frequencies in montane populations of the chorus frog, *Pseudacris triseriata*.

M.S. - Colorado State University, Fort Collins. 1967. Major: Zoology. Area of specialization: Vertebrate Population Genetics. Thesis: Microgeographic variation in gene frequencies in the chorus frog.

B.A. - University of Massachusetts, Amherst. 1965. Major: Zoology

Professional Experience

Professor Emeritus of Biology, Department of Biological Sciences, California State University, Stanislaus, 2001 to present.

Professor of Biology, Department of Biological Sciences, California State University, Stanislaus, 1981-2001. Department Chairman 1981-1990.

Papers Presented or Published (continued)

1997. Williams, D.F., W. Tordoff, III, and D. Germano. Evaluation of methods for permanently marking kangaroo rats (*Dipodomys*: Heteromyidae). Spec. Pub. Museum Southwestern Biology 3:259-271.

Wildlife Surveys Completed

1981. Tordoff, W. III. Population and habitat survey of the limestone salamander in Mariposa County. Prepared for the Bureau of Land Management, Folsom, CA Office.
- 1986a. Williams, D. F., and W. Tordoff III. Martin Ranch endangered wildlife survey. Calif. Dept. Parks and Recreation, Sacramento. 22pp.
- 1986b. Williams, D.F., and W. Tordoff III. Kettleman Hills wildlife survey. California Dept. General Services, FP6-3100.23, 14 pp.
1987. Tordoff, W. III, and D.F. Williams. San Joaquin Valley conveyance project presurvey wildlife assessment. J.M. Montgomery consulting engineers, Inc. Walnut Creek, California, 25 pp.
1988. Williams, D.F., and W. Tordoff III. Operations and maintenance schedule: Elkhorn Plain Ecological Reserve, San Luis Obispo County, California. California Dept. Fish and Game, Nongame Heritage Program, Sacramento, Final Report, 71pp.
1988. Williams, D.F., W. Tordoff III, and J.H. Harris. San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) study - 1988. California Dept. Fish and Game, Wildlife Management Division., Endangered Species Wildlife Program, Contract Final Report, 62 pp.
1989. Williams, D.F., D. Germano, and W. Tordoff III. Effects of livestock grazing on an endangered community dominated by giant kangaroo rats (*Dipodomys ingens*). Pp 1-32 In: Endangered Species Study - 1989 (D.F. Williams *et. al.*). California Dept. Fish and Game., Sacramento, FG-8391, 83 pp.
1990. Williams, D.F., D.G. Germano, and W. Tordoff, III. Endangered species study - 1990: Effect of livestock grazing on an endangered species community dominated by giant kangaroo rats (*Dipodomys ingens*). California Dept. Fish and Game., Sacramento.
- 1998a. Tordoff, W., Wildlife survey for proposed Connor Estates peninsula. Mid-Valley Engineering.

Wildlife Surveys Completed (continued)

2003c. Tordoff, W. Wetlands/Wildlife Survey - Hughes' Riverbank Annexation.
Benchmark Engineering, Oakdale, CA

2003d. Tordoff, W. Vernal Pool Survey - Galas Property. Russell A. Newman, P.L.C.,
Modesto, CA

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-581**

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: PRECISE PLAN FOR AREA NO. 17 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE NORTHEAST CORNER OF FLOYD AVENUE AND OAKDALE ROAD IN THE VILLAGE ONE SPECIFIC PLAN AREA (RONALD L. LaFORCE ET AL., MODESTO VENTURE 168, AND CHRIS & PAULINE GIANULIAS)

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 superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Ronald L. LaForce et al., Modesto Venture 168, and Chris & Pauline Gianulias, for a Precise Plan for Area No. 17, property located at the northeast corner of Floyd Avenue and Oakdale Road, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, and

WHEREAS, the City’s Community and 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 an Initial Study, Environmental Assessment No. EA/C&ED 2003-78, 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

WHEREAS, the Planning Commission, by Resolution No. 2003-55, adopted on September 8, 2003, and City staff, by a report dated October 1, 2003, from the Community and Economic Development Department, recommended to the City Council approval of Precise Plan No. 17 of the Village One Specific Plan, and recommended approval of an Amendment to Sections 11-3-9 and 14-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay, SP-O, property located at the northwest corner of Floyd Avenue and Oakdale Road, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 28, 2003, 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 Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," for the proposed project, and the Council hereby makes the following findings:

1. The proposed Precise Plan and rezoning are consistent with the Village One Specific Plan and Modesto Urban Area General Plan.
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 Village One Program EIR, as amended by the 1994 Supplemental 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 Village One Program EIR, as amended by the 1994 Supplemental EIR, are required.
4. 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.
5. The Initial Study, Environmental Assessment EA/C&ED 2003-78, provides the substantial evidence to support findings 2-4 noted above.

BE IT FURTHER RESOLVED that a copy of said Environmental Assessment No. EA/C&ED No. 2003-78, entitled "Projects Within the Scope of the Village One Specific Plan Program Environmental Impact Report for Precise Plans 2, 15, 16, & 17," is attached hereto as Exhibit "A", and incorporated herein as reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney

EXHIBIT "A"

INITIAL STUDY

EA/C&ED NO. 2003-78

**Determination:
Projects within the Scope of the
Village One Specific Plan
Program Environmental Impact Report for
Precise Plans 2, 15, 16, & 17**

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Brad Wall
(209) 577-5282

Prepared by:

Brad Wall, Associate Planner
City of Modesto
Community & Economic Development Department
(209) 577-5267

August 22, 2003

WRITTEN CHECKLIST

EA/C&ED No. 2003-78

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). 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 Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Section 15182 of the CEQA Guidelines allows the approval of subsequent residential projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

- (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.

The purpose of this initial study is to provide the substantial evidence to support the above findings.

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 Areas 2, 15, 16, & 17
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Brad Wall, Associate Planner
Modesto Community & Economic Development
Department
(209) 577-5267
4. **Project Location:** Between Sylvan and Floyd Avenues east of
Oakdale Road - Modesto, California
5. **Project Sponsor's Name and Address:** Ronald L. LaForce (et al)
P.O. Box 814
Modesto CA 95353
6. **General Plan Designation:** The General Plan land use designation for the
project site is: Village Residential (VR). This
designation allows the zoning & land uses
described within the proposed Precise Plans.
7. **Zoning:** Specific Plan Holding (SP-H)
8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, the project
applicant proposes a total of approximately 625 single-family lots within the four Precise
Plans (see attached diagram).
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 largely by undeveloped land, which is designated by the Specific Plan for

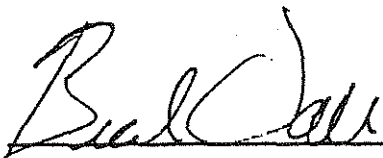
residential development. A mix of residential and commercial zoning and land surround the project site.

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 15182 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.



Project Manager

August 22, 2003

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 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 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 projects. 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 development 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 projects 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 additional 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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant has hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson's Hawk. The biologist's report is attached. There would be no additional impact. No additional 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
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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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 2. Strong seismic groundshaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 3. Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | 4. Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.

		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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

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
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 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."

2. The following statement shall be placed in all Precise Plans for Residential Development:

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.

3. Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Floyd Avenue (from Oakdale Road to Roselle Avenue): 106 ft.

Oakdale Road (from Sylvan Avenue to Floyd Avenue): 214 ft.

Source: Brown-Buntin Associates Noise Study, April 1993

4. "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."

JUL 20 2003 09:51 1100 1-039 P.002 1-271

SWAINSON'S HAWK FORAGING HABITAT SURVEY
VILLAGE ONE
Precise Plan Areas 2, 15, 16, and 17

Prepared for:
ASSOCIATED ENGINEERING GROUP, INC.
4206 Technology Drive
Modesto, CA 95356

Prepared by:
WALTER TORDOFF, Ph.D.
Professor Emeritus of Biology
Department of Biological Sciences
California State University, Stanislaus
801 W. Monte Vista Ave.
Turlock, CA 95382

July 25, 2003

INTRODUCTION

Swainson's Hawk, *Buteo swainsoni*, is a species of large hawk which nests in the Central Valley of California. It is a California state listed threatened species and thus it is protected, as is its nesting and foraging habitat. The large Village One development in Modesto, California has been divided into 35 "Precise Plan Areas". An earlier study had identified, in general terms, possible Swainson's Hawk foraging habitat within this development. This study was undertaken to assess the foraging habitat for Swainson's Hawk in four of the Precise Plan Areas (2, 15, 16, and 17). Swainson's Hawks forage for food in a prescribed manner. As is typical of a number of other large hawks, they forage during the daylight hours by soaring high above the ground and watching for suitable prey (mostly small mammals such as mice and ground squirrels, but also large insects like grasshoppers). Once prey is spotted the bird dives to the ground to capture it. Thus suitable foraging habitat must be relatively clear of high vegetation for two reasons: to allow the hawk to see the prey; and to allow the hawk to swoop down upon it without hitting branches or other high vegetation. Thus, open fields and low growing croplands are suitable but orchards, vineyards, and tall crops (mature corn) are not. Corn fields thus present different situations at different stages. Until the corn plants exceed a certain height (1-2 feet) the fields are suitable for foraging. Taller than that, they are not, but once cut down, they are suitable again. Since the Swainson's Hawk is only present in the Central Valley during Spring and Summer and nesting occurs predominantly from April through July, it is the condition of the fields at that time which is most important.

QUALIFICATIONS

My Curriculum Vita (resume) is attached. In summary, I have a Ph.D. in Zoology with over 30 years of university teaching experience in ecology and ornithology and appropriate research experience in each including conducting numerous wildlife surveys in Stanislaus County. I am also an ardent bird watcher who has spent many hours observing Swainson's Hawks both in California and throughout its range in the United States.

FIELD WORK

I visited the area on July 21 and 25, 2003 to both assess Swainson's Hawk foraging habitat and to determine the extent of that habitat individually, as well as collectively, in each of the four Precise Plan Areas.

DESCRIPTION OF THE AREA(S)

The four Precise Plan Areas are located at the western end of Village One, areas 2 and 17 ordering Oakdale Road to the west and extending from Sylvan Avenue on the north (area 2) to Floyd Avenue on the south (area 17). Areas 16 and 15 continue east from the eastern edge of areas 2 and 17 to the eastern boundary of Ustach Middle School, occupying approximately the middle third of the land between Sylvan and Floyd

Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17 page 3

Precise Plan Area 16

Just to the west of area 15, this is the only one of the four areas that does not have any human development at the present time. It is entirely agricultural with a vineyard (@5.3 acres) being the only non foraging habitat, and the rest of the land planted in corn.

Precise Plan Area 17

The northern portion of this parcel is developed as a house, outbuildings, yard, and garden (@12.5 acres). The rest of the land is recently disked fallow cropland which is Swainson's Hawk foraging habitat.

ASSESSMENT OF THE SWAINSON'S HAWK FORAGING HABITAT

Simply presenting the numbers above does not give an adequate picture of the value of this land as foraging habitat for the Swainson's Hawk. On the one hand, I have seen Swainson's Hawks in the vicinity of this land engaged in foraging behavior in the past so this land has probably been used. On the other hand, I would assess the quality of this land as Swainson's Hawk foraging habitat as low for the following reasons.

First, the preferred food of this hawk is small mammals, the predominant one in this area being the California ground squirrel. This species is present in these areas in low numbers but only on higher ground (such as the dirt track running from Hillglen Avenue south on the west side of Ustach Middle School to the south end of the school and then turning east as the southern boundary of areas 15 and 16) because their burrows are destroyed in the lower areas that are plowed and flood irrigated. In less intensively cultivated areas, ground squirrels occur at much higher densities.

Second, since this land is surrounded by urban areas including housing developments, schools, and commercial establishments with a lot of automobile traffic on the roads and people walking through the area, the hawks are much more likely to be disturbed while foraging and feeding which may drastically reduce the foraging efficiency for the species. Such reductions in foraging efficiency have been shown to result in nest failure or nest abandonment by the parents.

Finally, the close proximity to many humans and their activities establishes the possibility of inadvertent poisoning of the hawks if people are intentionally or even unintentionally introducing toxic substances into the food chain. Poisons put out for rats, mice, and squirrels have been shown to be ingested by raptors causing illness, sterility, and/or death (this was one of the major causes of the decline in California condors in the 1980's). Substances like antifreeze, while not meant to kill anything, may also be ingested by the hawks be fatal.

JUL 20 2005 01:30 F108T 1-855 P.0017011 P-211

CURRICULUM VITAE

WALTER TORDOFF III
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(209) 632-4495

Professional Expertise

Ecology, Ornithology, Herpetology, Vertebrate Ecology, Population Biology,
Evolution, Genetics.

Academic Degrees

Ph.D. - Colorado State University, Fort Collins. 1971. Major: Zoology. Area of specialization: Vertebrate Ecology. Dissertation: Environmental factors affecting gene frequencies in montane populations of the chorus frog, *Pseudacris triseriata*.

M.S. - Colorado State University, Fort Collins. 1967. Major: Zoology. Area of specialization: Vertebrate Population Genetics. Thesis: Microgeographic variation in gene frequencies in the chorus frog.

B.A. - University of Massachusetts, Amherst. 1965. Major: Zoology

Professional Experience

Professor Emeritus of Biology, Department of Biological Sciences, California State University, Stanislaus, 2001 to present.

Professor of Biology, Department of Biological Sciences, California State University, Stanislaus, 1981-2001. Department Chairman 1981-1990.

Tordoff - Curriculum Vita -Page 5

Wildlife Surveys Completed (continued)

2003c. Tordoff, W. Wetlands/Wildlife Survey - Hughes' Riverbank Annexation.
Benchmark Engineering, Oakdale, CA

2003d. Tordoff, W. Vernal Pool Survey - Galas Property. Russell A. Newman, P.L.C.,
Modesto, CA

Tordoff - Curriculum Vita -Page 3

Papers Presented or Published (continued)

1997. Williams, D.F., W. Tordoff, III, and D. Germano. Evaluation of methods for permanently marking kangaroo rats (*Dipodomys*: Heteromyidae). Spec. Pub. Museum Southwestern Biology 3:259-271.

Wildlife Surveys Completed

1981. Tordoff, W. III. Population and habitat survey of the limestone salamander in Mariposa County. Prepared for the Bureau of Land Management, Folsom, CA Office.

1986a. Williams, D. F., and W. Tordoff III. Martin Ranch endangered wildlife survey. Calif. Dept. Parks and Recreation, Sacramento. 22pp.

1986b. Williams, D.F., and W. Tordoff III. Kettleman Hills wildlife survey. California Dept. General Services, FP6-3100.23, 14 pp.

1987. Tordoff, W. III, and D.F. Williams. San Joaquin Valley conveyance project presurvey wildlife assessment. J.M. Montgomery consulting engineers, Inc. Walnut Creek, California, 25 pp.

1988. Williams, D.F., and W. Tordoff III. Operations and maintenance schedule: Elkhorn Plain Ecological Reserve, San Luis Obispo County, California. California Dept. Fish and Game, Nongame Heritage Program, Sacramento, Final Report, 71pp.

1988. Williams, D.F., W. Tordoff III, and J.H. Harris. San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) study - 1988. California Dept. Fish and Game, Wildlife Management Division., Endangered Species Wildlife Program, Contract Final Report, 62 pp.

1989. Williams, D.F., D. Germano, and W. Tordoff III. Effects of livestock grazing on an endangered community dominated by giant kangaroo rats (*Dipodomys ingens*). Pp 1-32 In: Endangered Species Study - 1989 (D.F. Williams *et. al.*). California Dept. Fish and Game., Sacramento, FG-8391, 83 pp.

1990. Williams, D.F., D.G. Germano, and W. Tordoff, III. Endangered species study - 1990: Effect of livestock grazing on an endangered species community dominated by giant kangaroo rats (*Dipodomys ingens*). California Dept. Fish and Game., Sacramento.

1998a. Tordoff, W., Wildlife survey for proposed Connor Estates peninsula. Mid-Valley Engineering.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-582**

**A RESOLUTION APPROVING THE REMOVAL OF TWO MID-BLOCK
CROSSWALKS ON 10TH AND 12TH STREETS BETWEEN H AND I STREETS.**

WHEREAS, with the construction of the Gallo Performing Arts Center and the 12th Street Office Project, the east side of 10th and 12th Streets has been fenced off between H Street and I Street, and the two mid-block crosswalks have been temporarily closed for the past 8 months, and

WHEREAS, the Gallo Performing Arts Center will not create additional parking, but pedestrian activity will dramatically increase with its completion, and

WHEREAS, the 12th Street Office Project will include a 6-story parking structure, which will also impact pedestrian activity, and

WHEREAS, based on concerns for pedestrian safety and downtown traffic flow, in combination with anticipated increases in new pedestrian traffic, staff recommends removal of both mid-block crosswalks on 10th and 12th Streets, and

WHEREAS, on September 10, 2003, a 30-day "Notice of Removal" for public review was placed at the mid-block crosswalk locations, and

WHEREAS, on September 14, 2003, notice of the proposed mid-block crosswalk removals was duly published in The Modesto Bee in order to gather public input, and

WHEREAS, only one comment against removal of the existing mid-block crosswalks was received, and

WHEREAS, the Economic Development Committee reviewed and recommended removing the two mid-block crosswalks at their meeting on October 13, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the removal of two mid-block crosswalks on 10th and 12th Streets between H and I Streets.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-583**

A RESOLUTION AUTHORIZING FILING AN APPLICATION WITH THE ECONOMIC DEVELOPMENT BANK FOR THE ROUTE 132 EAST INFILL WIDENING PROJECT IN THE AMOUNT OF \$420,000 WITH CO-APPLICANTS CITY OF CERES, CITY OF WATERFORD AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Stanislaus County Board of Supervisors has approved the formation of the ECONOMIC DEVELOPMENT BANK (“Bank”) for the purpose of providing resources for economic development projects throughout Stanislaus County, and

WHEREAS, Stanislaus County has made \$750,000 available for the first round of Fiscal Year 2003/2004 funding, and

WHEREAS, the Stanislaus County Board of Supervisors has established the procedures and criteria for application of said funds, and

WHEREAS, said procedures require the applicants submit competitive proposals to the Stanislaus Economic Development and Workforce Alliance (“Alliance”), as the Board of Directors for the Bank, and

WHEREAS, said procedures require the applicant agencies submit a resolution certifying the approval of the application by the applicant’s governing body before submission of the application to the Alliance, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is determined to design and build a state highway project using private sector expertise, to demonstrate that local governments working together can build such projects cheaper and faster than Caldrons, and

WHEREAS, The StanCOG Policy Board has selected the Route 132 East Infill Widening Project (Frazine/Codoni to Riverside Drive) as a pilot project to demonstrate the viability of this new approach to delivering state highway projects, and

WHEREAS, the Route 132 project will facilitate over 15,000 daily truck trips and 27,000 peak season jobs in the Beard Industrial Tract by reducing congestion and making safety and operational improvements to this key economic development corridor, and

WHEREAS, StanCOG has identified a need for \$1,555,000 to complete all of the pre-construction work for the Route 132 project, of which the StanCOG Policy Board has determined the \$420,000 should be sought from the Bank, and

WHEREAS, StanCOG has asked the cities of Ceres, Modesto, and Waterford, and the County of Stanislaus, to join together in applying for the \$420,000 because the benefits of the Route 132 project will accrue primarily to those four communities, and

WHEREAS, the loan will be repaid by the State of California using the Stanislaus Council of Governments (StanCOG) future State Transportation Improvement Program (STIP) county shares, through an agreement which is being prepared between StanCOG and the California Transportation Commission, under the provisions of AB 3090, and

WHEREAS, StanCOG has agreed to provide \$215,000 of Regional Surface Transportation Funds and to secure from other sources all remaining funds to reach the required \$1,555,000 total,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of an application with the Bank for the Route 132 East Infill Widening Project in the amount of \$420,000.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to work with the City of Ceres, City of Waterford, Stanislaus County and StanCOG to execute and submit all necessary documents for the completion of the application for funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003 by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS/TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-584**

**A RESOLUTION APPROVING THE INSTALLATION OF A
ROUNDBOUT AT THE INTERSECTION OF FLOYD AVENUE AND
ROSELLE AVENUE**

WHEREAS, City staff was asked to provide a traffic signal/roundabout comparison analysis for the intersection of Floyd Avenue and Roselle Avenue (Floyd/Roselle), and

WHEREAS, staff has determined that roundabouts are more efficient than traffic signals and stop signs because they provide minimum delay; therefore, vehicles do not stack up at the approaches as would occur at signalized intersections, and

WHEREAS, the latest Insurance Institute study shows up to 70% reduction in 0.injury accidents through roundabouts as compared to stop signs or traffic signal-controlled intersections, and

WHEREAS, staff provided a simulation to the Transportation Policy Committee at their December 20, 2001 meeting, and

WHEREAS, staff was directed to return to the Transportation Policy Committee on February 21, 2002 to incorporate the commercial property and its accesses located on the southeast corner of Floyd Avenue and Roselle Avenue, and

WHEREAS, this matter was referred back to staff to review the concept of a roundabout at the Floyd/Roselle intersection, and

WHEREAS, on September 3, 2002, by Resolution No. 2002-432 the City Council adopted a Roundabout Policy, and

WHEREAS, staff provided a simulation for the Floyd/Roselle intersection at the February 10, 2003, meeting of the Economic Development Committee for their consideration, and

WHEREAS, the developer's representative, Dave Romano, requested additional time to prepare a rebuttal to staff's recommendation, and

WHEREAS, on June 9, 2003, the Economic Development Committee approved the proposed roundabout at Floyd/Roselle, and

WHEREAS, staff prepared an agenda report to go to full Council on August 6, 2003, and the developer requested that this item be pulled from the August 6, 2003 agenda and be brought back again to the Economic Development Committee in September to discuss a new proposal (financial), and

WHEREAS, this item was scheduled for the September 8, 2003 Economic Development Committee, and the developer's representative again asked for an extension, and

WHEREAS, on October 13, 2003, the Economic Development Committee approved the proposed roundabout at Floyd/Roselle, and

WHEREAS, the proposed roundabout for Floyd/Roselle complies with the Roundabout Policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of a roundabout at the intersection of Floyd Avenue and Roselle Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Mayor Sabatino

NOES: Councilmembers: Conrad, Keating, O'Bryant,

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 585**

A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL 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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-586**

A RESOLUTION APPROVING A DOWN PAYMENT ASSISTANCE PROGRAM (DPAP) LOAN TO DANIEL J. DEVELBISS FOR PROPERTY LOCATED AT 4033 DALE ROAD #C, MODESTO, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LOAN AGREEMENT.

WHEREAS, the City of Modesto has a Down Payment Assistance Program (DPAP) funded through a Federal Community Development Block Grant (CDBG), and

WHEREAS, the City Council must approve all loans under this program for over \$25,000, and

WHEREAS, staff recommends approving a \$60,000 DPAP loan to Daniel J. DeVelbiss, for a loan with principal only payments of \$50.00 per month for the first five years, and

WHEREAS, at the beginning of the sixth year, interest will start to accrue at 3% annually on the loan balance of \$57,000, and there will be a monthly amortized payment of \$270.30 from years six through thirty, and

WHEREAS, this property is located at 4033 Dale Road # C, Modesto, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on October 23, 2003, and supported and recommended the loan amount and terms,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request for a Down Payment Assistance Program (DPAP) loan to Daniel J. DeVelbiss, for property located at 4033 Dale Road # C, Modesto, in the amount of \$60,000.

BE IT FURTHER RESOLVED that principal only payments of \$50.00 per month will be paid for the first five years, and at the beginning of the sixth year, interest will start to accrue at 3% annually on the loan balance of \$57,000, with a monthly amortized payment of \$270.30 from years six through thirty.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-587**

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO PURCHASE A CATERPILLAR 420D BACKHOE FROM HOLT OF CALIFORNIA, STOCKTON, CA FOR A TOTAL ESTIMATED COST OF \$68,656.07

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a Caterpillar 420D backhoe, and

WHEREAS, the new storm water basins are larger and require a higher level of maintenance which can be performed by the Caterpillar 420D backhoe, and

WHEREAS, this additional backhoe will be used by the maintenance crews, and

WHEREAS, CFD funds are being made available for the City to perform maintenance, and

WHEREAS, Section 8-3.203 of the Modesto Municipal Code generally requires all purchases exceeding \$50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, Modesto Municipal Code Section 8-3.204(d) allows the Purchasing Supervisor to utilize process other than the formal bid procedure, if it will result in a procurement for the City for the lowest possible cost commensurate with the desired quality, and

WHEREAS, piggybacking off the State of California Multiple Award Schedule (CMAS) will achieve the lowest cost at the desired quality, and

WHEREAS, at its meeting on August 13, 2003, the Finance Committee authorized City staff to take this requirement purchase to Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to purchase said equipment off the CMAS contract and issue a purchase order to Holt of California of Stockton, Ca. for one (1) Caterpillar 420D backhoe for a total estimated cost of \$68,656.07.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-588**

**A RESOLUTION APPROVING A CONTRACT FOR THE PRECISE PLAN,
ENVIRONMENTAL DOCUMENTS AND PERMITTING WITH EDAW, INC. IN
THE AMOUNT OF \$380,205.00 AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE CONTRACT DOCUMENTS.**

WHEREAS, the Tuolumne River Regional Park (TRRP) Master Plan and Master Environmental Impact Report (MEIR) were developed over a two-year period and were approved and certified by the agencies of the TRRP Joint Powers Authority on December 12, 2001, and

WHEREAS, the first phase recommended for development in the TRRP Master Plan is the Gateway Parcel, and

WHEREAS, in order to move toward the development of the Gateway Parcel, a Precise Plan and Environmental Documents are needed, and

WHEREAS, after an extensive interview process it was the unanimous recommendation of an interview panel and of the Citizen's Advisory Committee to the TRRP Commission and Modesto City Council that EDAW, Inc. was the most qualified to provide a Precise Plan and Environmental Documents for the Gateway Parcel, and

WHEREAS, by Resolution No. 2003-337, the City Council accepted a proposal from EDAW Inc. to provide a Precise Plan, Environmental and Construction documents for the Gateway parcel of the Tuolumne River Regional Park; authorizing staff to negotiate a contract with EDAW to complete the Precise Plan and Environmental documents at a cost not to exceed \$350,000 and to return to Council at a later date for contract approval; and authorizing staff to negotiate a contract with EDAW to complete

future Construction documents for the Gateway parcel as funding becomes available and to return to Council at a later date for said contract approval, and

WHEREAS, the original RFP presented by EDAW requested base mapping and survey work to be provided by the City, and

WHEREAS, City staff and EDAW have determined that this service should be performed as a part of this agreement at an additional cost of \$30, 205, and

WHEREAS, City staff has negotiated a contract for a total of \$380, 205, which includes the Council approved price of \$350,000 plus the base mapping and survey work described above, and

WHEREAS, an additional \$15,000 is needed for contingencies and \$20,000 for staff project administration costs for a total project cost of \$415,205, and

WHEREAS, the Tuolumne River Regional Park Citizens Advisory Committee met on September 24, 2003, and supported the recommendation that the City of Modesto enter into an agreement with EDAW, Inc. to provide a Precise Plan and Environmental Documents for the Gateway Parcel of the Tuolumne River Regional Park and supported approval of the expenditure of \$380,205 to EDAW, Inc., with a total expenditure of \$415, 205 to include staff time and contingencies, and

WHEREAS, the Tuolumne River Regional Park Commission met on October 13, 2003, and recommended that the City of Modesto enter into an agreement with EDAW, Inc. to provide a Precise Plan and Environmental Documents for the Gateway Parcel of the Tuolumne River Regional Park, recommended approval of the expenditure of \$380,205 to EDAW, Inc., with a total expenditure of \$415, 205 to include staff time and

contingencies, and recommended approval of the requested budget amendment to fully fund this portion of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a contract for the Precise Plan, Environmental Documents and Permitting with EDAW, Inc. in the amount of \$380,205, with a total expenditure of \$415,205 to include staff time and contingencies, as described in **Exhibit "A"** attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT “A” or “Project”

Scope of Work Tuolumne River Regional Park, Gateway Parcel Precise Plan and Environmental Documentation

Project Description:

The City of Modesto, on behalf of the Tuolumne River Regional Park Commission (TRRP Commission), wishes to develop the Gateway Parcel of the Tuolumne River Regional Park (TRRP). The total site area is approximately 87 acres. The TRRP Commission envisions the site to be high-profile public gathering place close to commercial centers of Modesto and Ceres and accessible to the rest of the region along major arterial streets and Highway 99, as defined in the TRRP Master Plan, which was adopted by Stanislaus County, City of Ceres and City of Modesto by resolution in December 2001. The Gateway Parcel is one of several parcels in the TRRP Master Plan that require a precise plan and environmental work to be completed before construction can begin. The Precise Plan will define three phases of construction. Each phase will require the services of EDAW to prepare and produce the construction documentation necessary to complete that phase. The construction estimate for the entire build-out of the Gateway Parcel is \$21 Million.

Specific Plans and Environmental Work

It is anticipated that the Precise Plan, environmental work and construction documents will include, but are not limited to, the following elements:

- Site preparation, grading, terracing and drainage
- Riparian restoration
- Pavement areas:
 - roadways
 - parking lots
 - pathways
 - play area borders
 - pads for benches
 - pads for picnic tables
 - pads for shade structures
 - bridge abutments
 - staging areas
 - bridge under-crossings
 - pier abutments and terracing
 - median island paving
 - vista points and rest area pads
 - seat walls and respite areas
 - restrooms
 - other paved areas as determined by the precise plan

- Restrooms

- Landscaping
- Automatic irrigation system including central control
- All utilities with stub-outs when appropriate
- Drinking fountains with utility connections
- Site furnishings
- Conduit for all utilities
- Fencing
- Play equipment including curb ramps and all surfacing
- Water play feature
- Utility buildings
- Picnic facilities (including shade structures, picnic tables, and barbecues)
- Security lighting
- A parking complex of lots
- Tuolumne Boulevard Extension and connections to adjoining streets
- Amphimeadow and appurtenant support structures

The City of Modesto, on behalf of the TRRP Commission, wishes to contract for the Precise Plan, environmental work, permitting and all related services as outlined in Exhibit 'A' or 'Project', Scope of Work. This work is to be completed as funding becomes available, and contingent upon the schedule set forth in this Agreement.

Professional Services:

I. PRECISE PLAN

This scope of work for the Gateway Parcel Precise Plan will require a series of integrated, multidisciplinary tasks in order to achieve one goal: the creation of a plan that illustrates the future direction of the park. This plan will be as seamless as possible as it addresses all aspects of planning and design. The end product of this plan will communicate to the public not only the technical discussion of how to build it, but also the look and feel of the park and how it will be used. The Precise Plan will be important in setting design criteria and establishing guidelines for development of the park prior to construction.

Task 1.0: Project Start Up

Total Cost Not to Exceed. **\$ 66,629.00**

Task 1.1: Basemapping, Site and Survey Confirmation

EDAW, Inc. will review available base information provided by the City. In addition, EDAW, Inc. will conduct surveying and mapping activities needed for this project and will make this information available to the subconsultants in accordance with the project schedule. It is assumed that, prior to the survey and aerial photography work, the City will provide legal boundary and easement (right-of-way) descriptions to be mapped in the survey and included in all base drawings. As part of these surveying activities, a 3-Dimensional DTM (digital terrain map) that is AutoCAD compatible and is representative of the existing project conditions to within 1 foot of accuracy will be developed by Aspen Survey. The survey will identify

topography, existing trees, underground utilities, and all features of infrastructure relevant to the project. Current aerial photography will be provided by Aspen Survey. EDAW, Inc. will review the aerial photography and the survey of existing topography, existing trees, riverbank grades, underground utilities, and verify site conditions with the intention of identifying specific issues or concerns that will need to be addressed early in the process. The City shall not be responsible for base information accuracy. Any changes to the base map will be provided and documented by EDAW and provided to the City.

Deliverables: One (1) hard copy and one (1) CD with the AutoCAD file of the *Site Survey* to the City of Modesto Parks, Recreation and Neighborhoods (PR&N) staff for review and comment.

Task 1.2 Site Plan & Program Review Workshop

EDAW, Inc. is the author of, and familiar with the Tuolumne River Regional Park (TRRP) Master Plan, Master Environmental Impact Report (MEIR), CEQA Findings, Statement of Overriding Considerations, and the Mitigation Monitoring Program. EDAW, Inc. will proceed immediately into the detailed site review. EDAW, Inc. will conduct an in-house team review of the key components and program elements of the Gateway Parcel. These components include, but are not limited to, the following: site access, grading, landscape restoration, parking, planting, site and hydraulic engineering, permitting, and environmental analysis. EDAW, Inc. will review these components as they relate to each other, and how they may or may not affect the specific program elements. EDAW, Inc. will identify early in the process any specific concerns that will require further study during the Precise Plan development. EDAW will identify issues related to the trails layout, river overlooks, amphimeadow, fishing piers, and other site elements, and develop solutions as to how to integrate environmental mitigation measures with site design and engineering. EDAW, Inc. will facilitate a dialogue between the landscape architects, engineers, and environmental planners.

Deliverables: One (1) copy of the *Minutes of the Site Plan & Program Review Workshop* to the City of Modesto Parks, Recreation and Neighborhoods (PR&N) staff for review and comment.

Task 1.3: Client Kick-Off Meeting

EDAW, Inc. will conduct a team in-house review and will present the initial findings to City PR&N staff and TRRP representatives to formally kick off the project. EDAW, Inc. will confirm the Precise Plan process, and set in motion specific tasks that will need to be accomplished in this phase. EDAW, Inc. will have a roundtable discussion to review all of the site-related issues that will require further study.

Deliverables: One (1) copy of the *Minutes from the Client Kick-Off Meeting* to the City PR&N staff for review and comment.

Task 1.4: Public Meeting #1

EDAW, Inc. will review and discuss the relevant components in detail and confer with City PR&N staff, and will present the findings at an all-day series of meetings with the TRRP Citizens Advisory Committee (TRPP CAC) and the public. During this meeting EDAW will solicit and document public input on the issues surrounding the park, and address any outstanding program elements related to the Gateway Parcel. EDAW will design this first public meeting to focus on gaining valuable public input on the program elements and listening carefully to the public's desires for the Gateway Parcel.

Deliverables: One (1) copy of the *Minutes from Public Meeting #1* to the City PR&N staff for review and comment.

Task 2.0: Technical Analysis

Total Cost Not to Exceed. \$53,890.00

Task 2.1 : Preliminary Grading Plan

EDAW, Inc. will provide a *preliminary grading plan* that communicates the design intent of the park. This plan will define the landscape terraces as they step down to the Tuolumne River, and identify areas of cut and fill. This plan will also be important for understanding the transition from the future alignment of Tuolumne Boulevard elevations to the edge of the riverwalk. With a significant amount of earthwork envisioned for this project, EDAW, Inc. will create bold landforms that create a clear sense of place and reinforce the park’s program. EDAW, Inc. will use the grading plan, in association with a study model, as an important tool early in the process that will be helpful in communicating how the park will ultimately be designed.

Deliverables: Three (3) full size copies of the *preliminary grading plan* to the City PR&N staff for review and comment.

Task 2.2: Working Model

EDAW, Inc. will produce a *working study model* to assist with the three-dimensional understanding of the site. This model will illustrate the landscape terraces and grading direction of the site, as well as show the overall park trail and path layout. The model will also be suitable for public presentation as necessary to communicate the landscape site concepts.

Deliverables: None.

Task 2.3: Hydraulic Analysis

HDR Engineering, Inc., will perform a dynamic study of the riverbank and water movements, and will determine the future shape of the riverbanks. HDR will produce this *hydraulic analysis* which will provide a working model for setting the grades of the river terraces and influence the location of the riverwalk trail, paths, and grading concept. HDR will obtain existing HEC-2 or HEC-RAS hydraulic models for the project reach and will assess the related impacts. HDR will use survey data to verify existing model geometry, and the 2, 10, 25, 50, and 100-year peak discharges. This will then be modeled for existing and proposed conditions. HDR will estimate relative effects of improvements on the river water surface profiles and identify areas of high flow velocities for bank protection. This modeling effort will also be used by EDAW, Inc. to establish overbank elevations that will provide ecological benefit. A summary of these activities, along with a discussion of the results, will be developed and incorporated into the Precise Plan.

Deliverables: One (1) copy of the *Technical memorandum of River Hydraulics* submitted to the City PR&N staff for review and comment.

Task 2.4 Geotechnical Investigations

EDAW, Inc., led by HDR, will perform a geotechnical investigation to identify project constructability issues, soil suitability, data for re-vegetation, and the structural conditions of the soil near the pedestrian bridge. EDAW, Inc. will arrange to have five (5) soil borings over the project site. Two borings will be located at each edge of the proposed pedestrian bridge abutments to a depth of 40 feet. Three (3) borings will be scattered throughout the rest of the project site to a depth of 15 feet, and the boring logs will be recorded as part of this effort. EDAW, Inc. will arrange to have soil samples taken for laboratory analysis. EDAW, Inc. will review laboratory analyses data, and data from other sources, to assess the plant suitability of soil existing at the proposed finished grade. This information will be summarized and incorporated

into the final Precise Plan. This effort is important to understand whether or not a topsoil stockpile and reuse plan will be needed during construction. EDAW, Inc. will verify if the existing topsoil will be suitable enough to meet the needs of the project re-vegetation plan.

Deliverables: Three (3) copies of the *Technical Memorandum of the Geotechnical Investigation, Including geotechnical study, boring logs and soil analysis* to the City PR&N Staff for review and approval.

Task 2.5: Tuolumne Boulevard/ 9th Street Bridge Overpass Review

Lead by HDR, EDAW, Inc. will work with the appropriate agencies to review information regarding the alignment, overall design, and implementation schedule of the proposed Tuolumne Boulevard and 9th Street Bridge. City will supply EDAW, Inc. with the most current set of construction plans for review. EDAW, Inc. will incorporate relevant portions of these plans into the final Precise Plan.

Deliverables: None.

Task 2.6: Preliminary Environmental Studies

EDAW, Inc. will produce several environmental studies of the existing site, with special emphasis on the banks and riparian habitat of the Tuolumne River and Dry Creek. The following studies will be conducted by EDAW, Inc.:

- *Wetland Delineation*
- *Riparian and Terrestrial Habitat Assessment*
- *Species Field Studies*
- *Fisheries Studies*
- *Sensitive habitat for listed species near the location of the pedestrian bridge crossing over Dry Creek*
- *Opportunities/needs for bank stabilization or re-vegetation*
- *Location of trees to be protected*

Deliverables: See deliverables on Section II.

Task 2.7: Public Meeting #2

After completing the above technical studies, including a revised site layout plan, a grading plan, and a working model, and having a better understanding of the soil conditions and future river edge profiles, EDAW, Inc. will present a progress summary of these efforts to City staff. The City will provide consolidated written comments in response to this preliminary presentation. The progress summary will then be presented at a TRRP CAC and public meeting for review and comment. This meeting will enable the public and the committee to have a clearer understanding of the proposed landforms and the dynamic aspects of the park. EDAW, Inc. will compile and document City, TRRP CAC and public comment on the intended specific design of the park.

Deliverables: One (1) copy of the *Comments from Public Meeting #2* submitted to the City PR&N staff for review.

Task 3.0: Precise Plan Refinement

Total Cost Not to Exceed. **\$55,581.00**

Task 3.1: Site Plan Refinement

Once the technical studies are underway, EDAW, Inc. will produce a more detailed site plan of the Gateway Parcel, reviewing at a larger scale such elements as the Loop Road, the path and

trail layout, working grade elevations based on preliminary engineering, examining the river overlook and fishing pier locations, the scale and position of the amphimeadow, the pedestrian bridge location, the landscape terraces, and the riverwalk alignment. EDAW, Inc. will also begin examining the preferred opportunity sites for restrooms, site lighting, park signage, and maintenance areas.

EDAW, Inc. will also review the layout of the landscape terraces and wetland delineation; at this stage these efforts will be determined and reinforced by further environmental analysis that will be developed as explained in tasks 3.2, 3.3 and 3.4.

Deliverables: One full size copy, and a total of three (3) 11"x17" copies of the *Refined Specific Plan* to the City PR&N staff for review.

Task 3.2: Ecological Restoration Plan

EDAW, Inc. will produce an Ecological Restoration Plan. This plan will include the following:

- the re-establishment/restoration of riparian terraces to accommodate flood waters within a designated 185-foot riparian corridor parallel to the river;
- the restoration and maintenance of stream banks;
- the use of vegetated swales instead of traditional curb and gutter systems to capture and treat runoff from large areas of pavement;
- the use of wetlands for the capture and purification of storm water runoff.

Planning and design of these elements will satisfy the requirements of the Mitigation Monitoring Program for the TRRP Master Environmental Impact Report (MEIR): Consideration and inclusion of data related to the hydraulics and flooding capacity of the Tuolumne River; compliance with the native vegetation palettes as developed for the TRRP Master Plan; and riverbank contouring and planting that would provide long-term beneficial impacts to protected fish species in the vicinity of the project.

The Ecological Restoration Plan, a working document in collaboration between EDAW, Inc., HDR and McBain & Trush, will consist of overall descriptions and drawings of proposed restoration activities. The plan will include a project area description specifying project site location, mitigation obligations that need to be fulfilled, and restoration goals including types of habitat to be restored, enhanced, and created. The plan will also include detailed descriptions of proposed restoration activities and protocols for implementation, including site grading concepts, plant palette and planting plan, seed mixes and applications, irrigation and maintenance requirements, and a monitoring plan, including performance criteria and remedial contingencies. Plans and specifications will be incorporated into the grading, planting, and irrigation construction drawing sets in each phase as appropriate.

Deliverables: Three (3) copies of the *Ecological Restoration Plan* to the City PR&N staff for review and comment.

Task 3.3: Riparian Terraces Design

Natural processes will be enhanced by creating terraces to provide floodplain interaction during a variety of flow events. EDAW, Inc. will integrate data developed by HDR on flood volumes and velocities for each of the riparian terraces as identified in the TRRP Master Plan. These terraces are baseflow to 1.5-year flood, 1.5-year to 5-year flood, 5-year to 20-year flood, and 20-year to 100-year flood. Working with McBain & Trush, EDAW, Inc. will develop design details for the terraces, such as the optimal topographic elevations or range of elevations for each terrace, the minimum width needed for the terraces to accommodate flood volume, slope of terraces, location of any low areas or wetlands, the length and pitch of slopes between terraces, the optimal soil cross-section for structural stability, drainage and medium for vegetation, location of trails on each terrace, and appropriate planting plans.

Deliverables: None.

Task 3.4: Stormwater Wetlands and Vegetated Swales Design

EDAW, Inc. will incorporate data on runoff volumes and the location of impermeable surfaces, and will determine the best locations for vegetated swales and/or wetlands for the conveyance and treatment of stormwater runoff. The overall objective is to minimize the amount of offsite runoff and thus reduce water quality impacts to Dry Creek and the Tuolumne River. EDAW, Inc. will determine the needed length, width and cross-section of swales, plant characteristics, and incorporate this plan into the overall plan for the park.

Deliverables: None.

Task 3.5: Pedestrian Bridge, Paths, & Special Areas Layout

EDAW, Inc. will provide detailed plans on the pedestrian bridge design, the layout of the paths and riverfront trails, and the special interest areas such as the vista points and overlooks. The timing and construction of the future pedestrian bridge will be contingent upon the cooperation and acceptance of the Gallo property owners and the formation of the easement to Legion Park along the river edge.

EDAW, Inc. will provide a more detailed study of the vista points and overlook areas envisioned for the riverbank edge in order for the public to comment and also for cost estimation purposes. These special areas will tell the story of this regional park, and are important places to capture the attention of the public. EDAW, Inc. will look at these areas in detail, and provide creative ways to illustrate the park's landscape history and explain the park's ecological restoration processes. EDAW, Inc. will also consult local artists as necessary to assist in this process.

Deliverables: One (1) full size copy, and three (3) 11"x17" color copies of the *detailed plans on the pedestrian bridge design, the layout of the paths and riverfront trails, and the special interest areas* to the City PR&N staff for review and comment.

Task 3.6: Preliminary Planting Design

EDAW, Inc. will provide a preliminary planting plan that graphically illustrates the planting design for the park. The plan will be at an appropriate scale in its development in order to ensure a smooth transition into construction documents. The plan will also update the list of the proposed trees, shrubs, and ground covers to be used for the different landscape terraces as established in the Master Plan. EDAW, Inc. will supply an image board illustrating the specific plants proposed and the concept behind the planting design.

Deliverables: Three (3) copies of the *preliminary planting plan* and *image board* to the City PR&N staff for review and comment.

Task 3.7: Preliminary Design Criteria

EDAW, Inc. will delineate preliminary design criteria for the various site features and program elements such as: the pedestrian bridge construction, roadway construction, bank stabilization, grading activities, river hydraulics, wetlands protection, amphimeadow, and fishing piers. Plan sheets that show rights-of-way, easement lines, limits of improvements, elevations, and project limit lines will be established.

Deliverables: Three (3) copies of preliminary design *criteria* in written and graphic form to City PR&N staff for review and comment.

Task 3.8: Estimate of Probable Costs

After completing the above tasks, EDAW, Inc. will perform an in-house review of the probable site costs associated with the development of the park. This will be an important step in verifying the various park program elements, confirming the future park phasing, and aligning the park budget with the park development strategy. EDAW, Inc. will develop and confirm a unit cost strategy to allow for future flexibility.

Deliverables: Three (3) copies of the *Estimate of Probable Costs* to the City PR&N staff for review and comment.

Task 3.9: Public Meeting #3

After completing the above master plan refinements, including planting and restoration plans, EDAW, Inc. will present a *Summary* of these efforts in preparation to *Public Meeting #3* to City staff. The City will provide consolidated written comments in response to this preliminary presentation. The summary will then be presented at a TRRP CAC and public meeting for review and comment.

Deliverables: None.

Task 4.0: Plan Renderings & Final Report

Total Cost Not to Exceed..... **\$40,791.00**

Task 4.1: Design Sections & Elevations

EDAW, Inc. will develop site cross-sections and site elevations to study the proposed grading and level changes for the park. Working with HDR and McBain and Trush, EDAW, Inc. will analyze the site transitions and provide illustrative drawings that incorporate not only the environmental thinking involved but also the artful grading techniques that create special places in the park. These sections will be particularly important in screening future parking to enhance the park experience for the visitor, illustrating the landscape terraces, showing the grades of the amphimeadow, and illustrating the overlooks along the Tuolumne River.

Deliverables: See deliverables for Task 4.5.

Task 4.2: Perspective Sketches

EDAW, Inc. will provide illustrative perspective sketches, both at eye level and from above, to communicate the park design to the public. These sketches will illustrate relationships of the various site elements, and explain the overall design intent of the park. They will be produced by a professional artist and digitally enlarged and mounted by EDAW, Inc. for public presentation. These renderings will also be designed and produced to be used in assisting the efforts to secure funding for the park.

Deliverables: See deliverables for Task 4.5.

Task 4.3: Illustrative Site Plans

EDAW, Inc. will provide a final illustrative site plan of the Gateway Parcel. EDAW, Inc. will also provide detailed enlargement site plans of specific areas such as the amphimeadow, overlooks, and fishing piers.

Deliverables: See deliverables for Task 4.5.

Task 4.4: Cost Estimate Review

EDAW, Inc. will update the site development costs as appropriate in preparation for the construction document phase.

Deliverables: One (1) copy of the *Cost Estimate Review* to City PR&N staff for review.

Task 4.5: Draft Precise Plan

The Draft Precise Plan will be a compilation of the design and engineering documents produced to date for the Gateway Parcel. EDAW, Inc. will produce a full size set of preliminary engineering plans, site plans, grading plans, planting plans, sections and elevations that summarize the environmental and design aspects. This set will be reduced to an 11 x 17 color document as an administrative draft for distribution to the City staff for review and comment. This document will undergo quality assurance check by the EDAW, Inc. in-house team prior to delivery.

Deliverables: One (1) full-size set, and a total of thirty (30) 11"x17" color copies of the *Draft Precise Plan* (including sections, elevations, perspective sketches, and illustrative site plans as per Tasks 4.1, 4.2 and 4.3) to City PR&N staff, CAC and TRRP Commission for review.

Task 4.6: Public Meeting #4

EDAW, Inc. will present the Draft Precise Plan to the TRRP CAC, TRRP Joint Powers Authority, and the public for comment. EDAW, Inc. will present the draft plan at an all-day session to gain input on the plan and the details of the park program elements.

Deliverables: One (1) copy of the *Minutes from Public Meeting #4* to the City PR&N staff for review and comment.

Task 4.7: Final Precise Plan Document

Once the appropriate parties have reviewed and commented on the draft documents, the City will provide one set of consolidated written comments in response to the Draft Precise Plan. EDAW will incorporate the necessary revisions and produce a final version of the Precise Plan. Copies of this document will be delivered to parks staff in preparation for the construction document phase, and also reviewed by the EDAW, Inc. quality assurance team.

Deliverables: One (1) full size color copy set, a total of seventy (70) 11"x17" color copy sets, and two (2) copies of CDs with the set's digital files of the *Final Precise Plan Document* to City PR&N staff, TRRP CAC and TRRP Commission.

II. ENVIRONMENTAL DOCUMENTS

The overall approach to the environmental documentation portion of the project is to conduct specific environmental technical studies early in the planning process that will serve multiple purposes. The technical studies will serve to satisfy the following environmental review and documentation purposes:

- Implement mitigation measure requirements of the TRRP Master Plan Mitigation Monitoring Program (MMP) (e.g. acoustical engineering study of amplification used at the amphimeadow to meet performance measures set in mitigation measures),
- Provide site-specific resource information required for consultation with resource agencies as part of the environmental permitting process, and
- Assess whether the Precise Plan will result in any new or additional significant impacts not previously addressed in the MEIR.

The environmental review of the Precise Plan will take advantage of the streamlining power of the Master EIR to focus environmental review.

It is anticipated that much of the information for project-level documentation exists within the recently completed MEIR. This information will be augmented as necessary with the technical reports to evaluate site-specific issues related to the Gateway Parcel.

As stated in the MEIR, if the City of Modesto as lead agency determines, based on an Initial Study, that a proposed subsequent project will have no additional significant effect on the environment that was not identified in the Master EIR, then the City shall make a written finding based on the Initial Study that the subsequent project is within the scope of the project covered by the Master EIR (Public Resources Code 21157.1).

EDAW, Inc. proposes that with the site-specific analysis provided in the technical reports, resource agency consultation and fulfillment of environmental permitting requirements, and integration of measures to protect sensitive resources into the park design, it is unlikely that any new significant effects will be found that were not previously identified in the Master EIR.

Task 1.0 Technical Studies

Total Cost Not to Exceed **\$77,171.00**

EDAW, Inc. will conduct the appropriate environmental technical studies required for the Gateway Parcel site design, environmental review, and environmental permitting processes. The Mitigation Monitoring Program for the TRRP Master Plan identifies several studies to be performed when detailed implementation plans are developed, during the environmental permitting processes, and prior to groundbreaking. Technical environmental studies will also be required for environmental review of the Precise Plan to assess whether the plan will result in any additional environmental effects not previously identified in the MEIR.

Many of the technical studies will be performed early in the schedule to provide the technical insight for landscape architects to integrate measures into the Precise Plan that will minimize impact to sensitive resources and fulfill the requirements of the Master Plan mitigation measures.

Some of the studies will also be used to provide information to resource agencies to determine environmental permits required by the project and to develop appropriate mitigation measures through the environmental permit consultation process, in fulfillment of the Master Plan MEIR MMP. EDAW, Inc. will prepare the following technical studies. The City shall provide one set of consolidated comments to EDAW on all draft documents. This scope anticipates one round of review and comment for each draft document.

Task 1.1: Wetlands Delineation

A wetlands delineation will be conducted to determine the extent of jurisdictional Waters of the U.S., including wetlands. A wetland delineation will be conducted immediately following project start-up to inform the Precise Planning process. An EDAW, Inc. wetland biologist and hydric soil specialist will conduct a wetland delineation on the project site, following the procedures specified in the 1987 USACE of Engineers Wetland Delineation Manual. The manual provides technical guidelines and methods for a three-parameter approach to determining the location and boundaries of jurisdictional wetlands. To be considered a wetland, this approach requires that an area support positive indicators of hydrophytic vegetation, wetland hydrology and hydric soils. Data collected on these three parameters will be recorded on routine wetland delineation forms and the location and boundaries of areas qualifying as wetlands will be mapped on a base map of the project site.

Based on the amount of jurisdictional Waters of the U.S. that will be filled, the appropriate permit will be determined through consultation with the U.S. Army Corps of Engineers (USACE) (e.g., a Nationwide, Individual or Letter of Permission permit). If necessary, this information will be used for the Section 404, Section 10 and Section 401 of the Clean Water Act (CWA) and the California Department of Fish and Game (CDFG) 1601 permit applications.

Deliverables: Three (3) copies of the *wetlands delineation* document to the City PR&N staff for review and comment.

Task 1.2: Riparian and Terrestrial Habitat Assessment

A riparian and terrestrial habitat assessment will be conducted by EDAW, Inc. biologists. This information will be used for the development of the detailed restoration plan as well as the Section 1601 Streambed Alteration Agreement permit application.

Deliverables: Three (3) copies of the *riparian and terrestrial habitat assessment* document to the City PR&N staff for review and comment.

Task 1.3: Assessment of Aquatic Habitat and Special-status Fish Species

An assessment of aquatic habitat and fish species occurrence will be conducted in areas where construction of fishing piers, the pedestrian bridge, and riparian restoration is proposed. This information will be used for consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (ESA) and to determine if an incidental take permit is required.

Deliverables: Three (3) copies of the *assessment of aquatic habitat and fish species* document to the City PR&N staff for review and comment.

Task 1.4: Special-status Species Memorandum

A special-status species technical memorandum will document field studies conducted for special-status species in the project area, including surveys for raptors and elderberry shrubs that may serve as habitat for the valley elderberry longhorn beetle. The surveys and site-specific impact evaluation will be conducted to determine if an incidental take permit is required and will be used for the detailed restoration plans. A Biological Assessment will be prepared for consultation with

USFWS under Section 7 of ESA.

Deliverables: Three (3) copies of the *special-status species technical memorandum* to the City PR&N staff for review and comment.

Task 1.5: Hydrologic and Hydraulic Analysis

Hydrologic and hydraulic analysis will be conducted to confirm that the Precise Plan does not increase river flow velocities, increase base flood water surface elevations, or cause scour or erosion on existing and new bridge piers and fishing piers. This information is also critical for the detailed design of the riparian terraces to ensure that they provide adequate flood protection, as well as function successfully as riparian habitat.

Deliverables: Three (3) copies of the *hydrologic and hydraulic analysis* to the City PR&N staff for review and comment.

Task 1.6: Amphimeadow Acoustical Analysis

EDAW, Inc. landscape architects will consult with an acoustical engineer to develop specific measures to reduce noise-related impacts to nearby residences and other sensitive receptors. A noise specialist will also consult with resource agencies to ensure noise levels would not have an adverse impact on State and federally protected wildlife species. Memorandums will be prepared following the consultation.

Deliverables: Three (3) copies of the *amphimeadow acoustical analysis* document to the City PR&N staff for review and comment.

Task 1.7: Traffic Impact Assessment

A traffic impact assessment will be prepared for environmental review of the Precise Plan to assess whether specific details of the plan would cause a significant environmental effect that was not otherwise identified in the MEIR. If a significant effect is found, corresponding air and noise analyses will be conducted.

Deliverables: Three (3) copies of the *traffic impact assessment* to the City PR&N staff for review and comment.

Task 1.8: Traffic Management Plan

A traffic management plan will be prepared to reduce congestion during special events at the amphimeadow and large special events, as required by Mitigation Measures Traffic-1 and Traffic-2 of the MEIR.

Deliverables: Three (3) copies of the *traffic management plan* to the City PR&N staff for review and comment.

Task 1.9: Parking Management Plan

A parking management plan will be prepared to reduce parking effects on the surrounding neighborhood from special events at the amphimeadow and large special events, as required by Mitigation Measure Traffic-4 and Traffic-5 of the MEIR.

Deliverables: Three (3) copies of the *parking management plan* to the City PR&N staff for review and comment.

Task 2.0 Environmental Review

Total Cost Not to Exceed \$12,416.00

The scope of work for the environmental review of the Precise Plan will follow the limited

environmental review process allowed under CEQA for projects within the scope of a Master EIR. At the time the MEIR was prepared, several projects proposed for the Gateway Parcel were identified as subsequent projects because sufficient information was not reasonably available to support a full assessment of potential impacts.

The Precise Plan will incorporate all mitigation measures as set forth in the MEIR and the focused environmental review of the project will analyze only the subsequent project's additional significant effects on the environment and any new or additional mitigation measures or alternatives that were not identified and analyzed by the MEIR.

The following subsequent projects will be included in the Gateway Parcel Precise Plan and will require additional site-specific environmental review:

- Special events, including those at the amphimeadow
- Removal of Dennett Dam
- River overlooks, fishing piers, and the pedestrian bridge
- Development and grading of children's playgrounds and projects in the former ranch complex in the Gateway Parcel (with regards to hazardous materials site investigations only).

The following details the scope of work that EDAW, Inc. will follow for the Gateway Parcel environmental review.

Task 2.1: Review Existing Documentation

EDAW, Inc. team members will review relevant sections of the TRRP Master Plan, MEIR, CEQA Findings of Fact, Statement of Overriding Consideration and Mitigation Monitoring Program and appropriate technical studies prepared for development of these products. It is anticipated that much of the information for project level documentation exists within the recently completed MEIR. This information will be augmented with additional technical studies as necessary to address site-specific issues related to the Gateway Parcel.

Deliverables: None.

Task 2.2: Prepare Initial Study

EDAW, Inc. will prepare an Initial Study checklist for the TRRP Gateway Parcel, as required by CEQA. The Initial Study will use the most recent checklist from the CEQA Guidelines. The Initial Study will "scope out" those environmental resources that would not be significantly affected by adoption of the TRRP Gateway Parcel Precise Plan or for which a potential impact was covered in the MEIR and for which a mitigation monitoring plan, findings of fact, and statements of overriding considerations were adopted.

It is assumed that the following impacts can be found to be less than significant based on the information provided in the MEIR:

- Aesthetics
- Agricultural Resources
- Cultural Resources (with implementation of mitigation measures identified in the MEIR)
- Geology, Soils, and Seismicity
- Hazardous Materials (with implementation of mitigation measures identified in the MEIR)

- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems

Further environmental investigation and technical studies will need to be conducted for other environmental topics to evaluate site-specific conditions. These technical studies will determine whether the Precise Plan would result in any new significant effect not previously identified in the MEIR. The Initial Study will reference the MEIR and technical studies to support its findings.

Because the MEIR analyzed the potential impacts of subsequent projects to the extent feasible using best available assumptions at the time, it is likely that environmental evaluation may confirm that the assumptions made in the Master Plan were accurate and that there have not been significant changes to the environment or circumstances that would result in additional impacts. In addition, our design team will be in constant communication with environmental technical experts throughout the planning process to integrate measures to minimize impact to resources into the plan.

If, based on the Initial Study, it is found that the Precise Plan will have no additional significant effect on the environment that was not identified in the Master EIR, then the City may make a written finding based on the Initial Study that the subsequent project is within the scope of the project covered by the Master EIR (Public Resources Code 21157.1), and no additional environmental review documentation will be needed.

Because it is not anticipated that the program for the Gateway Parcel will change significantly from that envisioned in the Master Plan and evaluated in the MEIR, it is not likely there will be any new significant environmental effects not previously analyzed in the MEIR. We believe that by conducting the appropriate technical analysis and initiating consultation with resource agencies early in the site design process we will be able to inform the site design to minimize impacts to sensitive resources. In addition, because the MEIR mitigation measures developed for potential impacts related to subsequent projects provided performance measures to mitigate impact, the additional technical studies and plans required by the MMP will be able to refine the measures to address any site-specific issues associated with the impacts identified in the MEIR. The following issue areas require evaluation using site-specific information:

Biological Resources

The biological resources evaluation will be based on the MEIR and the technical habitat assessment and species studies required by the MMP and environmental permitting process. (see Section II, Tasks 1.1-1.4) The specific design details of the subsequent projects identified in the MEIR will be evaluated to determine if the Precise Plan would result in any additional significant environmental effects not identified in the MEIR.

Riparian Habitat

As noted in the MEIR, the development of the Gateway Parcel would result in a net increase in riparian habitat over time; however, the short-term loss is a significant environmental effect. The MEIR identifies mitigation measures to mitigate this effect to a less-than-significant level. During consultation with USACE and CDFG to obtain a Section 404 permit and Section 1601 Agreement, additional mitigation for impacts to riparian areas would be developed using the site-specific detailed riparian restoration plan developed as part of the Precise Plan. Site-specific riparian and terrestrial habitat will be assessed in areas designated for construction and a

technical memo prepared evaluating potential project impacts. Consultation with agencies proposed as part of the Environmental Permitting Section of this proposal would fulfill the requirements of the mitigation measures for impacts identified in the MEIR.

Jurisdictional Waters of the U.S.

A wetlands delineation and initial consultation with USACE will be conducted immediately following project startup (see Section II, Task 1.1). Because the MEIR identified Impact Bio-2: Jurisdictional Waters of the U.S., and provided mitigation measures to address the potential impact, including consultation with resource agencies, it is unlikely that additional significant environmental effects would be found, beyond those identified in the MEIR. Consultation with resource agencies described in the Environmental Permitting section of this proposal would fulfill the requirements of the mitigation measures for impacts identified in the MEIR. In addition, to ensure the protection and minimal impact to Jurisdictional Waters, this data will be incorporated into the detailed restoration plan as described in the Precise Plan Section of this proposal.

Special Status Fish

The primary project activities influencing fisheries resources include removal of Dennett Dam, construction of the pedestrian bridge, re-contouring of riverbanks, and alteration of riparian vegetation. Beneficial aspects of dam removal such as enhanced fish passage must be compared to potential impacts such as temporary sediment mobilization during the removal process. Impacts due to construction of the bridge will depend on design features such as the need for piers or bulkheads constructed within the active channel and timing of construction periods relative to life-history phases of potentially impacted species. Based on information provided in the MEIR, site specific details of species utilization and habitat conditions will be conducted for the bridge on Dry Creek. Riverbank re-contouring and riparian plantings are expected to have long-term beneficial impacts on protected fish species present in the vicinity of the project; however, mitigation measures will likely need to be developed for short-term construction-related impacts.

Site-specific information, including habitat assessment and species occurrence, will be developed by Jeff Hagar for proposed construction sites on Dry Creek. Jeff Hagar will provide advice and address questions from the design team for incorporating beneficial features to enhance aquatic habitat for fish, particularly protected species. The technical analysis of habitat assessment and species occurrence will be used to assess potential for new impacts from implementation of the Precise Plan, and will also support the permit application process.

Special-Status Species

A number of special-status species were identified as potentially occurring in the riparian zone on the Gateway Parcel. As required by the MEIR MMP, surveys will be conducted for valley elderberry longhorn beetle habitat and nesting raptors, including Swainson's hawk. Surveys will be conducted during the appropriate season using methods approved by the CDFG and the USFWS. Information on other potentially occurring special-status species presented in the MEIR MMP will be verified and updated as necessary.

Impacts to biological resources including special-status species will be assessed. The assessment will be based primarily on information from the MEIR MMP and the technical studies described under Task 1, and the Biological Assessment. Site-specific avoidance and minimization measures for special-status species will be developed through consultation with the wildlife agencies. In addition to the potential for habitat removal and degradation, potential impacts associated with increased noise and lighting from the amphimeadow and large special events will be assessed.

Hydrology and Water Quality

HDR Engineering will obtain existing HEC-2 or HEC-RAS hydraulic models for the project

reach and will assess project-related impacts. The proposed model geometry (project conditions) will be developed as the precise plan is developed. The 2, 10, 25, 50, and 100-year peak discharges would then be modeled for existing and proposed conditions. The intent of the hydraulic modeling task is to estimate relative effects of improvements on the river water surface profiles and to identify areas of high-flow velocities for bank protection. This modeling effort will also assist the landscape architects and civil engineers in establishing overbank elevations that will provide ecological benefit. Data obtained from the USGS Gage Station 112900 will be used to verify model results and to establish design surface elevations. A summary of these activities, along with a discussion of the results, will be developed and incorporated into the Precise Plan. The Precise Plan will be adjusted to ensure that it does not increase river flow velocities, increase base flood water surface elevations, or cause scour or erosion on existing and new bridge piers and fishing piers as required by the Master Plan MEIR mitigation measures.

Transportation and Circulation

Fehr & Peers will prepare a Traffic Impact Assessment for the Gateway Parcel Precise Plan (See Section II, Task 1.7). The technical analyses prepared for the Modesto General Plan MEIR and TRRP MEIR will form the basis of the analysis. As a result, new technical work will be focused on the transportation impacts identified in the TRRP MEIR as needing further evaluation (i.e., traffic & parking impacts from special events at the amphimeadow and large special events). Fehr and Peers will also conduct a project-level analysis of the potential traffic and parking impacts of the interim parking, circulation and access plan for Phases I and II, prior to the Tuolumne Blvd. realignment and development of the Loop Road in the Gateway Parcel. The environmental setting will include descriptions of the roadway network within the area and traffic conditions, available transit services, bicycle facilities, and pedestrian facilities. Fehr & Peers will evaluate service levels on up to two additional study roadway segments and two study intersections during up to two peak periods. The study intersections and peak periods evaluated will be selected in consultation with City staff. Fehr & Peers will collect new daily traffic counts at the two study roadway segments and new turning movement counts at the two study intersections during the two peak periods (2-hour) of analysis. Existing peak hour service levels for the study intersections will be determined using the daily volume-to-capacity ratio for roadway segments and the Highway Capacity Manual (2000) methodology for each study intersection.

Trip Generation, Distribution and Assignment

Fehr & Peers will estimate the project's daily and peak hour trip generation, distribution, and assignment based upon the TRRP MEIR.

Existing Plus Project Conditions

Fehr & Peers will calculate service levels for the existing plus project (Phase I & II) condition, using the volumes and the methodologies described previously. Fehr & Peers will identify significant project impacts, using the standards of significance developed in coordination with the City.

Fehr & Peers will qualitatively assess the project's impact on emergency access and alternative transportation (i.e., bicycle, pedestrian, and transit facilities).

Fehr & Peers will qualitatively assess the project's impact on parking capacity focusing upon the general park uses anticipated during Phases I & II.

Cumulative Traffic Conditions

Cumulative traffic conditions will be evaluated using the traffic forecasts contained in the MEIR and TRRP EIR assuming completion of project development (including amphimeadow and special events). This scope of services assumes that no changes will be required to the travel demand model used for the MEIR and TRRP EIR. The resulting traffic projections represent

build-out of the City's General Plan in approximately year 2025. Fehr & Peers will then manually add the expected project trips (developed in Task 2b) to the future volumes. Fehr & Peers will calculate service levels for the cumulative condition using the methodologies described previously. Significant project impacts will be identified.

Mitigation

As identified in the TRRP MEIR, a traffic management plan will be developed to reduce congestion during special events at the amphimeadow and large special events (see Section II, Task 1.8). In addition, an event parking management plan will be developed to reduce parking impacts during special events at the amphimeadow and large special events (see Section II, Task 1.9). Fehr & Peers will develop mitigation, if a new significant impact is found, to satisfy near-term parking needs during Phase I and II (prior to initiation of large-scale events).

Prepare Initial Study Document

EDAW, Inc. will compile the results of the technical studies and evaluations into a Draft Initial Study. The standards of significance will be based on the most recent CEQA checklist (Appendix G) and any adopted standards of agencies with jurisdiction over the project area (e.g., City of Modesto, City of Ceres, County of Stanislaus, etc.).

It is anticipated that the technical analysis provided for the Initial Study will support a conclusion that the Precise Plan is covered within the scope of the MEIR and thus no additional documentation will be needed to meet CEQA environmental review requirements for the Precise Plan.

Deliverables: Three (3) copies of the *draft initial study* to the City PR&N staff for review and comment. EDAW, Inc. will incorporate all City comments on the Draft Initial Study to create the Final Initial Study document. Once the City's comments have been incorporated, EDAW, Inc. will provide three (3) copies of the *screencheck version of the initial study* to the City PR&N staff for review and comment, and to verify that all requested changes have been made and all appendix materials, references, and final graphics are acceptable.

As stated in the State CEQA Guidelines section 15177 (3)(c), *Whether a subsequent project is within the scope of the Master EIR is a question of fact to be determined by the lead agency, based upon a review of the Initial Study to determine whether there are additional significant effects or new additional mitigation measures or alternatives required for the subsequent project that are not already discussed in the Master EIR.*

Following this finding by the City, EDAW, Inc. will prepare the appropriate notices of availability and completion. Taking advantage of the Master EIR's streamlining capabilities would result in time and cost savings to the City.

If any new significant environmental effects are found during the environmental technical analysis prepared for the Initial Study, a focused EIR will be prepared and compensation will be negotiated in an addendum to this contract per the discretion and direction of Modesto City Council.

III. ENVIRONMENTAL PERMITTING

Task 1.0: Permitting

Total Cost Not to Exceed\$25,652.00

Task 1.1: Jurisdictional Waters of the U.S. – USACE (Section 404, Section 10)

Task 1.2: Streambed Alteration Permit – CDFG (Section 1601)

Task 1.3: Water Quality – RWQCB (Section 401)

Task 1.4: Federally Listed Species – USFWS, NMFS (Section 7)

Task 1.5: State Listed Species – CDFG (Section 2080.1)

The following environmental permits may be required prior to project construction. EDAW, Inc. will provide permits for the following:

Section 404 of Clean Water Act

Section 10 of Rivers and Harbor Act

1601 Streambed Alteration Agreement

Section 401 of the Clean Water Act

Section 2080.1 of CDFG Code (California Endangered Species Act)

Biological Opinion under Section 7 of ESA.

Overall Approach for Agency Coordination & Consultation

During the project startup phase, EDAW, Inc. biologists will review existing information related to biological resources for the project site. EDAW, Inc. will contact the resource agencies identified in the permit table to discuss the project and get initial informal feedback from the agencies regarding potential impacts and mitigation measures. EDAW, Inc. biologists will communicate the information received from resource agencies with the design team and will work with landscape architects and engineers to minimize impact to sensitive resources. As detailed implementation plans are developed, EDAW, Inc. biologists will update the resource agencies on design progress, potential site-specific impacts, and incorporation of measures to minimize impacts.

When the Precise Plan (30% design) is complete, and the appropriate technical studies have been prepared, biologists will hold a pre-application meeting with the resource agencies (e.g., USACE, CDFG, Regional Water Quality Control Board (RWQCB), USFWS and/or CDFG) to determine what permits are required. The early initial coordination and communication between EDAW, Inc. biologists, the landscape architects, and resource agencies will facilitate the incorporation of measures to minimize impacts to sensitive resources and streamline the environmental permitting process.

Technical Studies/Preparation for Permit Application

EDAW, Inc. biologists will conduct specific technical studies, including habitat assessments and species field studies, to determine whether the Precise Plan will result in potential impacts to biological species, which may require environmental permits from the Resource agencies. The technical studies will serve the environmental review process and support the environmental permit applications. A copy of the Gateway Parcel restoration plan and grading plan will be

submitted with all permit applications. A description of some of the technical studies required for each permit is provided below. The permit that will utilize the study is identified in parentheses following the technical study name.

Wetland Delineation (Section 404, Section 10, Section 401 of CWA, and CDFG 1601)

A wetland delineation will be conducted immediately following project start-up to inform the Precise Planning process. An EDAW, Inc. wetland biologist and hydric soil specialist will conduct a wetland delineation on the project site, following the procedures specified in the 1987 USACE of Engineers Wetland Delineation Manual. The manual provides technical guidelines and methods for a three-parameter approach to determining the location and boundaries of jurisdictional wetlands. To be considered a wetland, this approach requires that an area support positive indicators of hydrophytic vegetation, wetland hydrology and hydric soils. Data collected on these three parameters will be recorded on routine wetland delineation forms and the location and boundaries of areas qualifying as wetlands will be mapped on a base map of the project site.

Following the field visit, EDAW, Inc. wetland biologists will prepare a preliminary wetland delineation report and submit it to the U.S. Army Corps of Engineers (USACE) for verification. The delineation report will describe the methods used to delineate wetlands at the site, the types of wetland present at the site, their acreage and exact locations. The report will also contain a map and copies of all original data forms.

An EDAW, Inc. wetland biologist and hydric soil specialist will conduct a site verification visit with USACE. Following the site verification visit, and depending on comments made by the USACE, EDAW will incorporate any changes to the wetland delineation requested by the USACE and will issue a final wetland delineation report. This report will serve as the baseline for determining impacts on jurisdictional wetlands and other Waters of the United States resulting from the Precise Plan and will be part of the Section 404 permit application package to the USACE. The wetland delineation will also serve as the delineation of CDFG jurisdictional streams/rivers for the Section 2080.1 permit.

Federal Endangered Species Act Consultation

Initial Consultation

Pursuant to the Federal Endangered Species Act, the USFWS and National Marine Fisheries Service (NMFS) have authority over projects that may affect the continued existence of federally listed species. Because the project would require a Section 404 permit from USACE, a Section 7 consultation with USFWS and NMFS will be required.

EDAW, Inc. biologists will consult with USFWS and NMFS regarding potential effects to species that are federally listed or proposed for listing as Threatened or Endangered and species considered as Candidates for listing. The consultation will include discussion of the anticipated approach for the overall process and will provide the opportunity for agency feedback regarding preliminary conclusions. This will help reduce the chance of surprises and subsequent delays later in the process.

Preparation of the Biological Assessment

A Biological Assessment (BA) will be prepared in accordance with USFWS guidelines. The BA will include a summary of consultation to date, description of the proposed action, an account of each species addressed, an assessment of project effects, an analysis of alternative actions, and an effect determination for each species.

Species anticipated to be addressed in the BA include: valley elderberry longhorn beetle, steelhead, Chinook salmon, splittail, California red-legged frog, giant garter snake, California tiger salamander, bald eagle, riparian brush rabbit, and San Joaquin Valley (riparian) woodrat. It

is assumed that with implementation of mitigation measures outlined in the TRRP MEIR and other appropriate impact avoidance and minimization measures, the project would be unlikely to adversely affect most of these species. Therefore, the discussion of these species and potential project effects would be relatively brief. Those species for which incidental take authorization is anticipated to be required include: valley elderberry longhorn beetle, steelhead, Chinook salmon, and splittail. These species will be discussed in greater detail in the BA and potential effects to them will be quantified.

Formal Section 7 Consultation

After submittal of the BA, formal Section 7 consultation will be initiated with the USACE. The effort required to complete the formal consultation can vary greatly, depending on a number of factors, such as the extent of potential effects, proposed mitigation, and USFWS staff assigned to the project. The cost reflected for this task assumes completion of the consultation within the ESA timeframe (i.e., 180 days) and is based on what can be anticipated at this time. If the consultation process becomes more lengthy or complicated than anticipated, additional effort may be required beyond this scope.

California Endangered Species Act Consultation

Initial Consultation

Pursuant to the California Endangered Species Act (CESA), CDFG has authority over projects that are likely to result in take of state-listed species. EDAW biologists will consult with CDFG regarding potential effects to state-listed species; which will serve the same purpose as described above under the federal consultation tasks, which are likely to be involved.

Request for 2080.1 Consistency Determination

The project has the potential to affect species that are protected under CESA and ESA, It is assumed that the project would not result in take of strictly a state-listed species (i., Swainson's hawk), therefore, a Section 2080.1 permit would not be required from CDFG. However, EDAW will request a Section 208.01 consistency determination from CDFG.

Cooperative and Simultaneous Agency Consultation: If a project affects species that are protected under CESA and ESA, the legislation encourages cooperative and simultaneous consultation by CDFG in order to coordinate the federal Section 7 process and that results in a consistent and compatible finding. EDAW, Inc. will consult with CDFG throughout the Section 7 process to identify conditions in the federal incidental take statement (i.e., biological opinion) that are consistent with CESA. This task assumes CDFG will accept a consistency determination.

Prepare Draft Permit Applications

Following the completion of the technical studies and initial consultations with resource agencies, if it is determined that an environmental permit is required for a project action, an EDAW, Inc. environmental permit specialist will begin preparing Preliminary Draft permit applications. EDAW, Inc. will submit the Preliminary Draft permit application to the City of Modesto for review as lead agency. EDAW, Inc. will incorporate the City's comments and then submit the Draft permit applications to the designated resource agency contacts.

Nationwide Permit Application

At this time, it is assumed the proposed project will fall within USACE Nationwide permit requirements. To qualify for this permit, the project must have no more than minimal adverse effects on the aquatic environment, individually and cumulatively. The TRRP MEIR states there is design flexibility for placement of structures to avoid wetland habitat. EDAW, Inc. biologists will work with the City of Modesto to identify jurisdictional wetland habitat and avoid impacts to these wetlands. Using this approach, it is assumed the project would qualify under the

Nationwide permit. EDAW, Inc. will prepare the Nationwide permit application for submittal to USACE. The application package will include Form Eng 4345, project description, project purpose, USACE jurisdiction on the project site, impacts, and proposed mitigation. It is assumed the mitigation measures outlined in the TRRP MEIR will be accepted by the USACE as mitigation.

Regional Water Quality Control Board Certification

The Regional Water Quality Control Board (RWQCB) promulgates and enforces water quality standards to protect water quality in California. The RWQCB has jurisdiction over all Waters of the United States, including wetlands.

Once USACE has verbally approved the appropriateness of the Nationwide Permit, EDAW, Inc. will send a letter of application to the RWQCB for water quality certification. It is assumed that a consultation meeting with RWQCB is not needed. A certified environmental document is required to accompany the water quality certification application.

1601 Streambed Alteration Agreement Application

Based on information provided in the TRRP MEIR, the project may have the potential to affect streams, rivers, and/or creeks with riparian habitat that is under the jurisdiction of the CDFG.

All diversions, obstruction, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports wildlife resources is subject to the regulatory approval of CDFG pursuant to Section 1600 through 1603 of the CDFG Code. Section 1601 governs any agency, state, or local, and any public utility, of any project that will divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake designated by the department, or use any material from the streambeds, without first notifying the department of such activity. Stream is defined as a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation. CDFG's jurisdiction within altered or artificial waterways is based upon the value of those waterways to fish and wildlife. A CDFG Streambed Alteration Agreement must be obtained for any project that would result in impact to a river, stream, or lake or associated riparian habitat. EDAW, Inc. will submit a 1601 Streambed Alteration Agreement application to CDFG for proposed modifications to drainages on site. This includes completion of Form FG 2030 and the project questionnaire form. A certified environmental document is required to accompany the Streambed Alteration Agreement application.

Consultation/Feedback on Draft Applications

Through consultation and negotiations, appropriate mitigation and avoidance measures will be determined and implemented by EDAW, Inc.

Prepare Final Permit Applications

Deliverables: EDAW, Inc. will prepare a Final Permit Application incorporating comments and negotiated agreements by the resource agencies and the City of Modesto, as lead agency.

EDAW, Inc. will provide three (3) copies of the *Final Permit Application* to the City PR&N staff for review and comment. EDAW, Inc. will submit the Final Permit Application to each of the appropriate agencies.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-589**

A RESOLUTION AMENDING THE FISCAL YEAR 2002-03 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO 1) REALLOCATE \$30,205 FROM THE TRRP OPERATING ACCOUNT (8900-390-3912-0235); 2) TRANSFER \$125,580 FROM 8910-800-8000-8003; AND 3) TRANSFER \$97,000 FROM 8900-800-8000-8003 TO TRRP CAPITAL IMPROVEMENT PLAN (CIP) PROJECT 2300-310-M269 TO FULLY FUND THE PROJECT.

WHEREAS, the City desires to enter into an agreement with EDAW Inc., a professional landscape architecture firm, to prepare a Precise Plan, Environmental Documents and Permitting for the Gateway Parcel of the Tuolumne River Regional Park, and

WHEREAS, the cost to provide these documents is estimated to be \$380,205, and

WHEREAS, an additional \$35,000 will be needed for contingencies and for City staff to provide project management for a total expenditure of \$415,205, and

WHEREAS, \$159,420 is available in Capital Improvement Project 8910-310-M269, Gateway Parcel Master Plan, and

WHEREAS, \$97,000 is available in the TRRP Operating Reserve, 8900-800-8000-8003, and

WHEREAS, \$128,580 is available in the TRRP Capital Improvement Plan Reserve, 8910-800-8000-8003, and

WHEREAS, \$30,205 is available in the TRRP Operating Budget account 8900-390-3912-0235, Services, Professional and Other, and

WHEREAS, the Tuolumne River Regional Park Citizens Advisory Committee met on September 24, 2003, and supported the recommendation to fully fund the project, and

WHEREAS, the Tuolumne River Regional Park Commission met on October 13, 2003, and supported the recommendation to amend the Fiscal Year 2002-03 Operating and Capital Improvement Budgets to transfer \$30,205.00 from the TRRP Operating account 8900-390-3912-0235 to 8910-310-M269, Gateway Master Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2002-03 Operating and Capital Improvement Budgets are hereby amended to 1) reallocate \$30,205 from the TRRP Operating account 8900-390-3912-0235; 2) transfer \$125,580 from the TRRP CIP Reserve, 8910-800-8000-8003; and 3) transfer \$97,000 from the TRRP Operating Reserve, 8900-800-8000-8003 to TRRP Capital Improvement Plan (CIP) project 2300-310-M269 to fully fund the project.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-590**

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT WITH CALTRANS FOR THE CONSTRUCTION OF A NEW TRAFFIC SIGNAL AT YOSEMITE BOULEVARD (STATE ROUTE-132) AND MORTON BOULEVARD AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, Caltrans District 10 has requested the City of Modesto to enter into a Cooperative Agreement for the construction of a new traffic signal at the intersection of Yosemite Boulevard (SR-132) and Morton Boulevard, and

WHEREAS, the signal installation is decided based upon Caltrans' review of traffic delay and collision history at the intersection, and

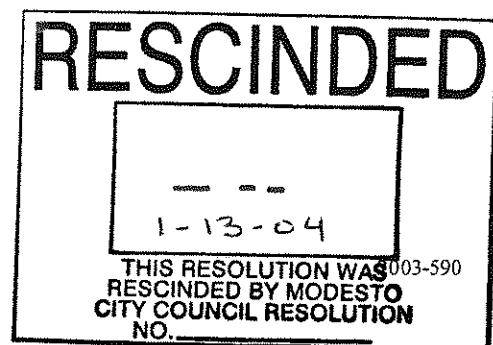
WHEREAS, Caltrans performed a traffic signal warrant analysis and the results of this analysis indicate the necessity to construct a traffic signal, and

WHEREAS, the signalization and other proposed improvements to the intersection are expected to reduce the collision rate and help facilitate the orderly movement of both vehicular and pedestrian traffic through the intersection, and

WHEREAS, funds are available in Account No. 2300-160-Q206, "Traffic Signals,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cooperative Agreement with Caltrans for the construction of a new traffic signal at Yosemite Boulevard (State Route-132) and Morton Boulevard.

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 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-591**

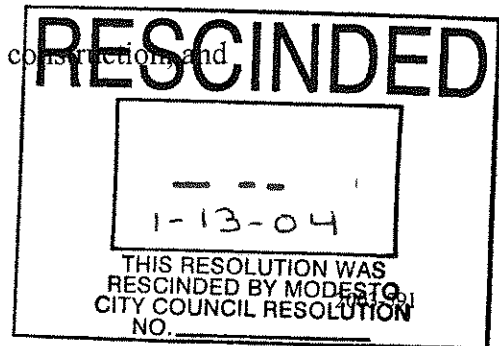
A RESOLUTION AMENDING THE FISCAL YEAR 2003 CAPITAL IMPROVEMENT PROGRAM AND OPERATING BUDGETS TO 1) ESTABLISH A NEW OPERATIONAL ACCOUNT IN THE GAS TAX FUND: 04-0700-160-1627-6040 'GAS TAX NEW TS YOSEMITE & MORTON W/CALTRANS, FOR \$98,210, 2) REDUCE THE EXPENDITURE APPROPRIATION OF MY-2300-160-Q206-6040 AND THE INTERFUND TRANSFER MY-2300-700-Q206-9070 BY \$85,000 EACH TO PARTIALLY FUND THE NEW OPERATIONS ACCOUNT, 3) REDUCE THE EXPENDITURE APPROPRIATION OF MY-2300-160-M144-6040 AND THE INTERFUND TRANSFER MY-2300-700-M144-9070 BY \$13,210 EACH TO PARTIALLY FUND THE NEW OPERATIONS ACCOUNT, AND 4) AUTHORIZE THE ROLLOVER OF UNEXPENDED FUNDS IN 04-0700-160-1627-6040 IN THE FISCAL YEAR 2003-2004 OPERATIONS BUDGET TO 05-0700-160-1627-6040 IN THE FISCAL YEAR 2004-2005 OPERATIONS BUDGET

WHEREAS, the City of Modesto has budgeted \$85,000 in the Fiscal Year 2003-2004 Capital Improvement Program (CIP) in MY-2300-160-Q206 to fund a share of the construction of new traffic signal at the intersection of Yosemite Boulevard (State Route 132) and Morton Boulevard, and

WHEREAS, the City of Modesto has also budgeted \$13,210 in the Fiscal Year 2003-2004 CIP in MY-2300-160-M144 to fund a share of the construction of other new traffic signals, and

WHEREAS, the Engineering and Transportation Director has recommended in a separate resolution that the City of Modesto execute a Cooperative Agreement for Caltrans to construct this traffic signal, and

WHEREAS, as part of this Cooperative Agreement the City of Modesto has agreed to pay Caltrans \$98,210 towards the construction of this traffic signal and Caltrans has agreed to pay the remaining \$198,984 needed for this construction, and



WHEREAS, the City of Modesto Finance Department has identified the availability of funds for this project and has recommended that a new operations account be established to track all Caltrans payments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the FY 02-03 Operations Budget to establish a new operational account in the Gas Tax Fund: 04-0700-160-1627-6040, "Gas New TS Yosemite & Morton w/Caltrans," for \$98,210.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2003-2004 CIP Budget reducing the expenditure appropriation of MY-2300-160-Q206-6040 and the Inter-fund transfer MY-2300-700-Q206-9070 by \$85,000 each to partially fund the new Operations account.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2003-2004 CIP Budget reducing the expenditure appropriation of MY-2300-160-M144-6040 and the Inter-fund transfer MY-2300-700-M144-9070 by \$13,210 each to partially fund the new operations account.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that all funds in 04-0700-160-1627-6040 that have not been expended by June 30, 2004, will be appropriated to 05-160-1627-6040 in the Fiscal Year 2005 Operations Budget.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution to amend both the Fiscal Year 2003-2004 CIP and Operations Budgets as specified above.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-592**

A RESOLUTION APPROVING THE EXPENDITURE OF THE STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND GRANT MONIES ALLOCATED TO THE CITY OF MODESTO IN THE 2003/2004 FISCAL YEAR

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 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 ensure 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 2003/2004 is \$302,843, and

WHEREAS, the program requires a public hearing 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 has budgeted its 2003/2004 State Supplemental Law Enforcement Services Fund monies of \$302,843 in the 2003/2004 Operating Budget to continue funding five Police Department positions, as follows:

3 Police Clerks
1 Property and Evidence Technician
1 Systems Analyst

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, after holding a public hearing, that it hereby approves the Chief of Police's spending plan for the 2003/2004 State Supplemental Law Enforcement Services Fund allocation of \$302,843 for the salary and benefits of three Police Clerks, one Property and Evidence Technician and one Systems Analyst.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-593**

A RESOLUTION APPROVING THE FEDERAL 2003 LOCAL LAW ENFORCEMENT BLOCK GRANT WITH THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE FOR THE PROCUREMENT OF EQUIPMENT AND TECHNOLOGY AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID GRANT

WHEREAS, the City of Modesto Police Department made application to the U. S. Department of Justice, Bureau of Justice Assistance for the 2003 Local Law Enforcement Block Grant Program, and

WHEREAS, the program is of 24-month duration, and it includes the program area of procuring equipment and technology to enhance law enforcement, and

WHEREAS, the Police Department submitted an application for various unmet equipment and technology needs, as attached, 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 is \$176,584 of which the federal share is \$158,926 and the local match is \$17,658 and that match is available from the California Law Enforcement Equipment Program, and

WHEREAS, at its meeting of August 4, 2003, the Safety and Communities Committee was informed of this grant opportunity and it unanimously recommended application for the funds, and

WHEREAS, the grant will make possible the purchase of specialized investigative computer software, digital cameras for crime scene photography, ballistic

shields, a latent print comparison system and a video system for the monitoring of departmental holding cells,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the Federal 2003 Local Law Enforcement Block Grant contract for the purchase of police equipment and technology, as attached.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said grant contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-594**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003/2004 ANNUAL
BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS FOR THE
2003 LOCAL LAW ENFORCEMENT BLOCK GRANT**

WHEREAS, the Police Department acquired a grant award from the U.S. Department of Justice for the 2003 Local law Enforcement Block Grant Program in the sum of \$158,926, and

WHEREAS, the City's match for the Federal grant program is \$17,658 and will be made from the California Law Enforcement Equipment Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/2004 Annual Budget is hereby amended as indicated below:

To:	<u>Expense:</u> 0400-190-2980-5906	2003 LLEBG	\$176,584
From:	<u>Revenue:</u> 0400-190-2980-3506	2003 LLEBG CLEEP	\$158,926 \$17,658

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 special meeting of the Council of the City of Modesto held on the 5th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-595**

**A RESOLUTION APPROVING A STORM DRAIN LATERAL
REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND
SUNDANCE LAKE MODESTO, LLC RELATED TO THE OVERSIZING OF
1,317 LINEAR FEET OF STORM DRAIN LINE AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, SUNDANCE LAKE MODESTO, LLC, a Delaware limited liability company, owns a certain tract of land consisting of approximately 36.03 acres within Stanislaus County, commonly known as Sundance Lake Subdivision, and

WHEREAS, in connection with the development of the subdivision, Sundance Lake Modesto installed 1,317 linear feet of 30” storm drain lateral, and

WHEREAS, the storm drain lateral was oversized to accommodate future development and will serve adjacent properties located outside of the subdivision, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with Sundance Lake Modesto to reimburse for oversizing costs, and

WHEREAS, the City has identified those properties to be served by, and which will benefit from Sundance Lake Modesto’s installation of the storm drain lateral, and

WHEREAS, the owners of the benefited properties have not participated in the construction or installation of the storm drain lateral, and

WHEREAS, the benefited properties have paid or will pay mitigation impact fees to the City as a condition of development, which will include their proportionate share of the cost of constructing said storm drain lateral, and

WHEREAS, Sundance Lake Modesto has requested and City has agreed that they be reimbursed for a portion of it's cost to install the storm drain lateral from the monies the City collects through said impact fees, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the CITY OF MODESTO and SUNDANCE LAKE MODESTO related to the reimbursement for oversizing a storm drain lateral in the amount of \$77,020.00 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager 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 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-596**

**A RESOLUTION APPROVING A REQUEST FOR AN EXTENSION OF
BUDGET AUTHORITY FOR VARIOUS STATE AND FEDERALLY FUNDED
PROJECTS AND AUTHORIZING THE CITY MANAGER TO SIGN THE
REQUEST**

WHEREAS, the State of California is searching for funds to improve the State Budget, and

WHEREAS, unspent funds that exceed 5 years for State projects, and 7 years for Federal projects have been identified, and

WHEREAS, local jurisdictions may lose unspent funds on the identified projects, and

WHEREAS, if a project is expected to go beyond May 1, 2004, an extension request for budget authority must be submitted by December 1, 2003, and

WHEREAS, an extension of budget authority must be approved by the State Department of Finance, and

WHEREAS, if approved, the expenditure deadline would be extended to June 30, 2005, and

WHEREAS, City staff has identified a list of City projects on Attachment "A" where funding will lapse on May 1, 2004, and for which a request for extension of budget authority should be made, and

WHEREAS, the City Council must indicate concurrence with the request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a request to extend the life of the funds listed in **Attachment "A"** is hereby approved.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Projects with I
for
As of September 11, 2003

As of June 30, 2004
004-05

Location Name/ Agency Name	Project Number	Initial Project Budget (For FY)	Unexpended Budget (For FY)	Purpose of Project / Project Description	Project Title within Doc	Project Considered with Original Source of Appropriation?	Reason for Delay	Identify Impediment for Completion (Status)	Was the project completed (and in reporting period)?	Name of Local Agency contact person Information	Additional Comments	Approved by DUP Yes or No	Fund Approved Provides Reason
City of Madison	BRLS-5459012	200,000.00	22,421.67	BRIDGE REPLACEMENT	SEVENTH ST. @ TULLOCH RIVER BR # 18C-003	Yes	Historical Bridge & Environmental Issues	Completion of PER	Yes	Deen Phillips	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459013	36,297.88	36,297.88	REPLACE EXISTING LOOP DETECTORS	CITYWIDE (DOWNTOWN)	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459014	4,700.00	4,700.00	REPLACE EXISTING LOOP DETECTORS	CITYWIDE (DOWNTOWN)	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459015	26,831.00	14,311.67	Restrip Carpool Parking Lot (Downtown)	City of Madison Carpool Parking (Various Locations)	Yes	None	Working with Finance Department to Close Project Under Construction	No Extension Requested	Annmarie Horvath			
City of Madison	CML-5459016	3,477.00	1,833.33	Signal Synchronization - CCTV	City of Madison - CHRYSLER	Yes	Encroachment Permit Issues & 1 1/2 Year Delay by Partially for other portion of Permit.	Working with Finance Department to Close Project Under Construction	No Extension Requested	Annmarie Horvath			
City of Madison	CML-5459017	1,833.33	1,833.33	Signal Synchronization - CCTV	City of Madison - CHRYSLER	Yes	Encroachment Permit Issues & 1 1/2 Year Delay by Partially for other portion of Permit.	Working with Finance Department to Close Project Under Construction	No Extension Requested	Annmarie Horvath			
City of Madison	CML-5459018	108,892.00	13,036.43	Equipment Purchase	Portable Video Vehicle Detection Systems	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459019	14,587.00	1,205.55	Equipment Purchase	Portable Video Vehicle Detection Systems	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459020	2,456.89	2,456.89	Traffic Signal Synchronization	Various Locations in Downtown Madison	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459021	67,282.00	67,282.00	Traffic Signal Synchronization	Various Locations in Downtown Madison	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459022	2,062.00	2,062.00	Signal Synchronization - CCTV	Various Locations in Downtown Madison	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459023	34,297.00	34,297.00	Install Trip Radiation Facilities	City of Madison - Downtown Area	Yes	None	Project Complete Need Final Report	No Extension Requested	Annmarie Horvath			
City of Madison	CML-5459024	1,377.00	1,377.00	Install Trip Radiation Facilities	City of Madison - Downtown Area	Yes	None	Project Complete Need Final Report	No Extension Requested	Annmarie Horvath			
City of Madison	CML-5459025	174,827.00	14,201.69	Operation of Concrete ATMS	Within the City of Madison	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459026	1,000.00	1,000.00	Expand ATMS network	Coffee Road to South Drive to City Hall	Yes	None	Project Complete Need Final Report	No Extension Requested	Terry Farmer	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459027	1,000.00	1,000.00	Upgrade ATMS network	At the intersections of College & Swanson, 11th & "P", 10th & "T" and Hill & El Vista	Yes	None	Project Complete Need Final Report	No Extension Requested	Terry Farmer	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459028	14,000.00	14,000.00	Signal Synchronization	At various locations throughout the City	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459029	1,000.00	1,000.00	Constant & roundabout project	On Brown Avenue between Bridge Avenue and Radio Avenue at the intersection of Collins Lane, Oakdale 1/2 mile, and Hank Street	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	CML-5459030	4,800.00	4,800.00	New Signals	On Brown Avenue between Bridge Avenue and Radio Avenue at the intersection of Collins Lane, Oakdale 1/2 mile, and Hank Street	Yes	None	Project Complete Need Final Report	No Extension Requested	Mark Murphy	Final Report to be sent prior to Dec 03		
City of Madison	PE-5459031	2,841,256.51	513,450.97	RR track removal & 2 RR Sp. & 1/2 mile	5th Street Bridge @ Tullahoma River, Trestle & gr. sep. @ 1st & 2nd St. @ Tullahoma River	Yes	State Public Lease/Abandonment Under Construction. Scheduled for completion in 2004. Federal Right of Way Trunk Lowering PE 50% Complete. Scheduled for construction Apr 2004. Completed by Sep 2004.	Grade Separation at Kenans/Neckburn Scheduled for completion by Jan 2004. Grade Separation at Tullahoma Blvd. Still Under Negotiation with UPRR.	No	Deen Phillips	Final Report to be sent prior to Dec 03		
City of Madison	RF-5459032	124,000.00	4,182.75	Rehabilitation of existing streets	On Tully Road, College Avenue, Stockard Avenue, Culwell Avenue and Sports Drive	Yes	Project Required Additional Environmental Study Prior to Construction	Project Under Construction. Complete Close out scheduled for Dec 2003	No Extension Requested	Deen Phillips	Final Report to be sent prior to Dec 03		
City of Madison	STP-5459033	1,333,112.00	263,172.00	Replacement - Bridge	5th Street Bridge @ Tullahoma River (B# 18C-0061)	Yes	Project Required Additional Environmental Study Prior to Construction	Project Under Construction. Complete Close out scheduled for Dec 2003	No	Deen Phillips	Final Report to be sent prior to Dec 03		
City of Madison	STP-5459034	172,451.00	16,693.34	Scientific Research - Bridge Replacement	5th Street Bridge @ Tullahoma River (B# 18C-0061)	Yes	Project Required Additional Environmental Study Prior to Construction	Project Under Construction. Complete Close out scheduled for Dec 2003	No	Deen Phillips	Final Report to be sent prior to Dec 03		

Signature of Approving Agency's Board or Council Member:
or Authorized Representative
Print Name:
Date:

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-597**

**A RESOLUTION DIRECTING WORK TO BE PERFORMED BY CITY FORCES
FOR AN AMOUNT NOT TO EXCEED \$130,000**

WHEREAS, the City is proposing to construct a new traffic signal at the intersection of Tully Road and Snyder Avenue due to the high volume of vehicles currently using the intersection on a daily basis, and

WHEREAS, new developments along both sides of Snyder will increase traffic to a higher volume in the near future, and

WHEREAS, there is a need to serve traffic east of Tully Road from Big Valley Christian School and Church, and

WHEREAS, the installation of a new traffic signal will help reduce stopping delays, increase traffic safety at the intersection and result in a reduction in air pollution, and

WHEREAS, the proposed project will include pedestrian phasing and crosswalks, vehicle detection, and other typical improvements associated with a traffic signal installation, and

WHEREAS, staff has determined that the project would best be constructed using City forces, and

WHEREAS, by Resolution No. 2003-?, adopted on ?,2003, Council found and determined that the Tully Road and Snyder Avenue traffic signal installation is included within the scope of the project covered by a Master Environmental Impact Report (MEIR), Sch. No. 1999082041, and

WHEREAS, the Finance Department has determined that funds for this project have been budgeted in the Fiscal Year 2003-2004 Capital Improvement Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is hereby directed to use City forces to construct the new traffic signal installation at Tully Road and Snyder Avenue in an amount up to \$130,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-598**

**A RESOLUTION FINDING THAT THE “NEW TRAFFIC SIGNAL
INSTALLATION – TULLY ROAD AND SNYDER AVENUE” PROJECT IS
WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER
ENVIRONMENTAL IMPACT REPORT (MEIR), SCH NO. 1999082041**

WHEREAS, on March 4, 2003, the City Council of the City of Modesto adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report (MEIR), (SCH No. 1999082041), for the Modesto Urban Area General Plan, is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act (CEQA) Guidelines, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for an MEIR, 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 MEIR, whether the subsequent project was described in the MEIR, and whether the subsequent project was described in the MEIR as being within the scope of the project, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2003-30, reviewed and proposed the “New Traffic Signal Installation – Tully Road and Snyder Avenue” project, which determined that the proposed project is within the scope of the project covered by the MEIR, that the proposed project will have no additional, significant effect on the environment that was not identified in the MEIR, and that no new or additional mitigation measures or alternatives may be required, and

WHEREAS, on October 7, 2003, the Engineering & Transportation Department caused to be published public notification of the determination conferred in Initial Study EA/ET No. 2003-30, pursuant to Public Resources Code Section 21092.

WHEREAS, said matter was considered by the City Council at a duly noticed meeting which was held on November 13, 2003, 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 EA/ET 2003-30, prepared for the proposed "New Traffic Signal Installation–Tully Road and Snyder Avenue" 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 project is consistent with the City of Modesto General Plan and is within scope of the project covered by the General Plan Final MEIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed traffic signal project that were not previously examined in the General Plan Master EIR.
- C. No new or additional mitigation measures or alternatives will be required as a result of the proposed traffic signal project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this traffic signal project that require specific mitigation measures. All certified mitigation measures identified in

the General Plan Master EIR will apply Citywide, including this project, as appropriate.

E. The Initial Study, Environmental Assessment No. EA/ET 2003-30, provides substantial evidence to support findings A through D above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a Notice of Approval 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 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

City of Modesto
Initial Study

INITIAL STUDY
INSTALLATION OF A NEW TRAFFIC SIGNAL
AT THE INTERSECTION OF TULLY ROAD AND SNYDER AVENUE
E.A./E.T. No: 2003-30

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

A. Project Title:

Installation of a New Traffic Signal at the Intersection of Tully Road and Snyder Avenue ("Project")

B. Lead Agency Name and Address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact Person, Address, and Phone Number:

Steven Liu, Engineering and Transportation Department, (209) 577-5297

D. Project Locations:

At the intersection of Tully Road and Snyder Avenue.

E. Project Sponsor:

City of Modesto, P.O. Box 642, Modesto, CA 95353

F. General Plan Designation:

MU (Mixed Use)

G. Zoning:

SP-O (Specific Plan – Overlay)

H. Description of Proposed Project:

The City is proposing to construct a new traffic signal at the intersection of Tully Road and Snyder Avenue. Currently, the intersection has a stop control on Snyder. Tully Road is a principal arterial north of Standiford per the City's General Plan, with a posted speed limit of 45 mph. The latest traffic counts indicate that Tully Road is carrying approximately 12,000 vehicular traffic per day at the site vicinity. Snyder Avenue is a collector street with a posted speed limit of 30 mph, which is carrying a daily traffic of about 1,600 near the intersection. However, the new developments along both sides of Snyder will quickly bring up traffic to a new high in the very near future. In addition, there is a need to serve traffic east of Tully Road from the Big Valley Christian School and Church.

The new traffic signal will help reduce stopping delay, increase traffic safety, and result in a reduction in air pollution at the intersection. The proposed project will include pedestrian phasing and crosswalks, vehicle detection, and other typical improvements associated with a traffic signal installation. The signal will be coordinated with other traffic signals on Tully Road.

I. Surrounding Land Uses:

The surrounding land uses are as follows. PD (Planned Development), P-O (Professional Office), and R-1 (Low Density Residential).

J. Other Public Agencies Whose Approval is Required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The proposed New Traffic Installation Project will not result in a physical change to any existing land use. It is consistent with the General Plan designation for this site. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impact Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR

for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The Project will not result in a physical change to any existing land use. The proposed use is consistent with the General Plan in land use and intensity, and the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. Therefore, the project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are, therefore, still valid.

D. Loss of Productive Agricultural Land

The proposed new traffic signals will be located in developed areas outside of productive agricultural land. Therefore, the project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) and they are, therefore, still valid.

E. Increased Demand for Water Supplies

The proposed Project includes traffic signal related improvements, and will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed Project includes traffic signal related improvements, and will create no additional 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.

G. Loss of Sensitive Wildlife and Plant Habitat

The proposed new traffic signals will be located in developed areas and not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The proposed improvements will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore, still valid.

L. Increased Demand for Schools

The proposed improvements will not create any additional demand for schools. 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 still valid.

M. Increased Demand for Police Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. 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.

N. Increased Demand for Fire Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. 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.

P. Generation of Hazardous Materials

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. 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-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the

MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

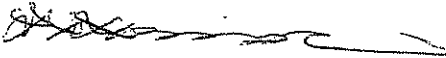
R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. 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.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed installation of a Traffic Signal Project is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the Project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the Project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the Project that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR 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.

Signature:



L. Steven Liu
Assistant Traffic Engineer

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-599**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT
FOR THE FURNISHING OF ROCKWELL REJUVENATION WITH
APPLEGATE BACKHOE & DRILLING, HUGHSON, CA FOR A THREE (3)
YEAR CONTRACT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS**

WHEREAS, the Operations and Maintenance Department, Waste Water Collections Division has requested the furnishing of rockwell rejuvenation, and

WHEREAS, the City of Modesto has a storm drainage system that requires an intense maintenance program, and

WHEREAS, the City has over 10,000 rockwells within this storm drainage system that require annual cleaning and at times rejuvenation, and

WHEREAS, rejuvenation of a rockwell entails replacing the core pipe and upper level rock materials and partially redrilling the original vertical shaft, and

WHEREAS, over the past six years, to maximize the effectiveness of the system, the total number of rockwells rejuvenated annually has grown from 35 to over 500, and

WHEREAS, in fiscal year 2002/2003, 528 rockwells received rejuvenation, and

WHEREAS, based on annual funds of \$1,167,900.00, it is estimated that 488 rockwells will receive rejuvenation in fiscal year 2003/2004, and

WHEREAS, rockwells routinely become contaminated and clogged due to organic material, oils, paint, concrete, silt and other debris, and

WHEREAS, once a rockwell becomes contaminated it ceases to function as designed and is rendered inoperable, and

WHEREAS, the only way to remove the contaminants and return the rockwell to its fully functional state is through the rejuvenation process, and

WHEREAS, the annual routine maintenance and rejuvenation of the City's rockwell drainage system is critical, and

WHEREAS, the continued functionality of all rockwells is completely dependent on their proper maintenance, and

WHEREAS, in June 2003, Council approved Resolution No. 2003-308 authorizing the Purchasing Supervisor to formally solicit bids for the furnishing of rockwell rejuvenation for the Operations and Maintenance Department, Waste Water Collections Division, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-38 for the furnishing of rockwell rejuvenation, and

WHEREAS, ten (10) vendors were solicited with one (1) vendor choosing to respond, and

WHEREAS, on July 29, 2003 bids were opened and recorded in the City Clerk's office, and

WHEREAS, it is recommended by staff that the City award the bid and authorize the City Manager to sign a contract for the furnishing of rockwell rejuvenation with Applegate Backhoe & Drilling, Hughson, CA for an estimated annual cost of \$1,166,000.00, for a three (3) year contract with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract to Applegate Backhoe & Drilling of Hughson, CA., for the furnishing of rockwell rejuvenation for an estimated annual cost of \$1,166,000.00, for a three (3) year contract with two (2) one-year extension options.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

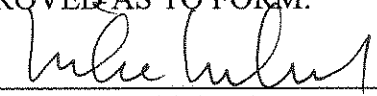
ABSENT: Councilmembers: None

ATTEST:



Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: 

Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-600**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT NATIONAL ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FUNDS IN THE AMOUNT OF \$256,297 AND TO EXECUTE THE NECESSARY GRANT ACCEPTANCE DOCUMENTS.

WHEREAS, the Congress, under Public Law 107-73, has authorized the establishment of the Federal Fire Protection and Control Act and has appropriated \$360 million dollars to carry out the Assistance to Firefighter's Grant Program, and

WHEREAS, the Federal Emergency Management Agency (FEMA) is responsible for administration of the program, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by FEMA require the applicant to provide 30% local matching funds, and

WHEREAS, the City of Modesto and Modesto Fire Department qualified to submit a grant request, and

WHEREAS, the Public Safety Committee met on March 31, 2003, and recommended support for this grant application, and

WHEREAS, the National Assistance to Firefighter's Grant Program has awarded a grant to the Modesto Fire Department in the amount of \$256,297,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby:

1. Authorizes the acceptance of Assistance to Firefighter's Grant Program funds in the amount of \$256,297.

2. Certifies that said agency has matching funds from the following source: Fire Department Operating Budget, and can finance 100 percent of the project, 70% of which will be reimbursed.
3. Authorizes the City Manager, or designee, as agent of the City to execute and submit the necessary grant acceptance documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-601**

**RESOLUTION APPROVING A LEASE AGREEMENT WITH JENNIFER
OLGIATI TO LEASE CITY-OWNED PROPERTY LOCATED AT 801 N
McCLURE ROAD AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE LEASE.**

WHEREAS, the City owns property located at 801 N McClure Road, and

WHEREAS, the previous Lessee, Tara Fairbairn, notified the City of her intent to terminate the existing Lease Agreement, and

WHEREAS, staff subsequently initiated the process to obtain another Lessee for the property, including advertising, reviewing rental applications, and performing credit/reference checks, and

WHEREAS, staff found Jennifer Olgiati to be the most qualified Lessee, and

WHEREAS, the proposed lease is for a period of twelve (12) months and includes monthly rental payments of \$800 (eight hundred dollars), and

WHEREAS, the proposed lease provides the tenant be responsible for landscape maintenance, major appliance maintenance, and other minor repairs of the property, and

WHEREAS, the proposed lease includes an inflation factor, should the lease be extended beyond the original 12-month commitment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Lease Agreement with Jennifer Olgiati to Lease City-Owned Property located at 801 N McClure Road, attached hereto as **Exhibit A**, is approved.

Be it further resolved that the City Manager or his designee is hereby authorized to execute the lease.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

Mike Milich
MIKE MILICH, City Attorney

LEASE AGREEMENT

This Indenture of Lease, made and entered into in the City of Modesto, County of Stanislaus, State of California, as of this 1st day of December 2003, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and Jennifer Olgiati, hereinafter called LESSEE.

THE PARTIES HERETO AGREE AS FOLLOWS:

That for and in consideration of the covenants, conditions, agreements, and stipulations hereinafter expressed, CITY does hereby demise and lease unto LESSEE, and LESSEE hereby hires from CITY those certain premises located at 801 N. McClure Rd. in the City of Modesto, County of Stanislaus, State of California, more particularly shown in red on the attached map marked Exhibit A.

1. TERM. LESSEE shall be entitled to have and to hold the leased premises, together with the appurtenances, rights, privileges and easement thereunto belonging to or appertaining, for a one (1) year term commencing on December 1, 2003 and ending on December 1, 2004.

If LESSEE with CITY'S consent remains in possession of the leased premises after the expiration of the lease term, possession of the leased premises shall be deemed to be a month-to-month tenancy, terminable on thirty (30) days written notice given by either party. LESSEE'S monthly rent shall be increased in the amount of \$50.00 per each 12-month period beyond the first year term. The City Manager is authorized to give said notice on behalf of CITY.

2. RENTAL.

- (a) Monthly rental for the lease of the leased premises shall be eight hundred and no/100ths (\$800.00) dollars payable each month in advance

commencing on December 1, 2003 payable in lawful money of the United States to CITY'S Director of Finance, P.O. Box 642, Modesto, California. The monthly rent shall be paid for the 1st of each month and subsequent months and a portion of any partial month prorated at the rate of 1/30th of the monthly sum. Rent shall be due on the 1st of the month and will be delinquent on the 15th of the month.

- (b) In the event the rental payment is not paid to CITY by the 15th of the month, there shall be added a monthly penalty of ten percent (10%) of the amount of rental due per month, or \$80.00, whichever is greater.

3. ADDITIONAL CONSIDERATION. LESSEE agrees that as further consideration for the lease of the demised premises to perform the following services:

- (a) At LESSEE'S discretion and sole cost, LESSEE may post signs indicating the leased premises is a private residence and no trespassing will be allowed.
- (b) LESSEE shall take care of minor maintenance, along with maintaining in working condition the kitchen appliances. Repairs to said appliances shall not be made without first obtaining written authorization from the Building Services Superintendent. City shall reimburse LESSEE for approved repair costs.

This agreement recognizes that a substantial inducement to CITY for entering into this agreement was, and is, the reputation and competence of LESSEE. Neither CITY nor its officers, agents or employees shall have any control over the conduct of LESSEE except as herein set forth, and for the purpose of this agreement, LESSEE expressly agrees not to represent that LESSEE is in any manner agent, servant or employee of CITY, it being understood that LESSEE is as to CITY wholly independent

contractor and that LESSEE'S obligations to CITY are solely such as are prescribed by this agreement.

4. DEPOSIT. Concurrently with the delivery of the signed Lease Agreement, LESSEE will deliver the first month's prorated rent in the amount of eight hundred dollars (\$800.00) and a deposit with CITY in the amount of eight hundred and no/100th Dollars (\$800.00) as security for the full and faithful performance of each and every term, provision, covenant, and condition of the Lease Agreement. If LESSEE defaults in respect to any of the terms, provisions, covenants, and conditions of this Lease Agreement, including but not limited to the payment of rent, to repair damages to the premises caused by the LESSEE, or cleaning of such premises upon termination of the Lease Agreement, CITY may use, apply, or retain the whole or any part of this security for payment of and or all of the above mentioned specific purposes. Any remaining portion of such deposit shall be returned to the LESSEE no later than thirty (30) days after termination of the Lease Agreement. LESSEE shall not be entitled to any interest on the security deposit.
5. USE. Said premises shall not be used by LESSEE during the term of this Lease Agreement for other than single-family residential and occasional guests except with the prior written consent of CITY.
6. RESTRICTIONS ON USE. LESSEE agrees to abide by the following restrictions on use of the premises:
 - (a) No animals or pets shall be permitted on the premises except those approved by prior written approval of the City Manager or his designee.
 - (b) All laundry and other types of maintenance operations shall be confined to the interior of the house.
 - (c) All storage, both temporary and permanent, shall be confined to the interior of the house.

- (d) No more than two (2) motor vehicles shall be kept on the premises at any time, and shall be in good running condition at all times.
- (e) Smoking will not be allowed in the house.

7. REPAIR – MAINTENANCE. LESSEE agrees that as part of the consideration for lease of the demised premises that LESSEE will make, at LESSEE'S sole cost and expense, any ordinary repairs to the dwelling necessary to keep said dwelling in a tenable condition.

LESSEE also agrees to maintain the demised premises in a safe, clean and sanitary manner, including the dwelling structure, the yard & landscaping, and to keep the entire premises reasonably free from noxious weeds and grasses. A fee of \$100.00 per month will be added onto the monthly rent for landscaping maintenance and upkeep if LESSEE fails to maintain landscaping at a level acceptable to CITY.

CITY shall be responsible for any major repairs to the demised premises, except as noted previously.

8. IMPROVEMENTS. LESSEE understands that no improvements to or upon the premises may be made without the prior written consent of the City Manager or his designee; any approved improvements will be done at the sole cost and expense of LESSEE.

No buildings or other structures shall be erected upon the premises unless the consent of the City Manager or his designee is first obtained in writing. LESSEE agrees to notify CITY at the time any improvements are begun so that CITY may post and record Notices of Nonresponsibility. LESSEE agrees not to permit any liens for both labor and materials to be placed upon said premises by reason of any improvements made thereon and further agrees to hold CITY harmless from any liability resulting therefrom.

9. RIGHT OF ENTRY UPON PREMISES. CITY and its agents and employees shall have the right to enter upon the leased premises under the following circumstances:

- (a) In case of emergency;
- (b) To make necessary or agreed upon repairs, decorations, alterations or improvements; supply necessary or agreed upon services; exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors; or to make preliminary inspections before termination of the lease agreement;
- (c) When the Lessee has abandoned or surrendered the premises; or
- (d) In accordance with a court order.

Lessor will give Lessee at least twenty-four (24) hour's notice of Lessor's intent to enter unless: (1) an emergency exists, (2) Lessee has abandoned or surrendered the leased premises, or (3) it is impracticable to do so. Further, Lessor will enter only during normal business hours unless: (1) an emergency exists, (2) Lessee has abandoned or surrendered the leased premises, or (3) Lessee consents, at the time of entry that is not during business hours, to the entry.

10. EMERGENCIES. If any emergency arises, LESSEE agrees to promptly take whatever remedial action may be feasible and promptly notify either the Building Services Division of the Operations & Maintenance Department or the Modesto Police Department of the existence of such emergency and the remedial action taken.

11. UTILITIES. LESSEE agrees to pay all utility bills, including electricity, water and garbage. Septic system will be maintained by CITY.

12. ASSIGNMENT BY LESSEE. LESSEE shall not assign this Lease Agreement nor any right hereunder, nor sublet the premises, nor any part thereof, or suffer any other person or entity to occupy or use the said premises or any portion thereof whether through direct assignment, subletting, occupation or use by another person or entity. Any such assignment, subletting and occupation or use by any other person or entity shall be void

and shall, at the option of the City Manager, terminate this Lease Agreement. This Lease Agreement shall not, nor shall any interest therein, be assignable, as to the interest of LESSEE by operation of law, without the prior written consent of CITY.

13. FIRE INSURANCE. CITY shall keep the leased premises, excluding personal property of the LESSEE, insured against losses by fire and other perils to the extent covered within CITY'S insurance policies, except that LESSEE agrees to reimburse CITY for any losses caused by, or arising out of LESSEE'S use, occupancy or operation of the leased premises and not covered under CITY'S insurance policies, including deductible amounts (presently \$5,000.00). LESSEE further agrees to reimburse CITY and/or CITY'S insurance companies for any such losses caused by, or arising out of LESSEE'S use, occupancy or operation of the leased premises for which the LESSEE may be held legally obligated to pay.

14. LIABILITY INSURANCE. LESSEE agrees to provide and keep in full force and effect throughout the term of this Lease Agreement a policy of insurance, covering any and all claims for injury, sickness and disease, including death therefrom, to any/all persons and damage to property, arising out of LESSEE'S use of, occupancy of, or occurring on the leased premises, in the amount of \$300,000. Within thirty (30) days of the commencement of this Lease Agreement, a certificate evidencing said insurance shall be filed with the City Clerk. Said certificate of insurance shall be in a form acceptable to CITY'S Risk Manager. LESSEE further agrees that the amount of insurance required may from time to time be adjusted by CITY'S Risk Manager and LESSEE agrees to file a new insurance certificate with the City Clerk evidencing the new amounts after a thirty (30) day written notice from CITY'S Risk Manager requiring him/her to do so.

15. INDEMNIFICATION. LESSEE agrees to indemnify, defend and hold the City of Modesto, its officers, agents, volunteers and employees free and harmless from and against any and all liabilities, claims, demands, actions, losses, damages or costs of

defense thereof that result in bodily injury and/or property damage caused by, arising out of, or in any way related to LESSEE'S use or occupancy of the leased premises, or occurring on the leased premises during the term of this lease or at any time of occupancy of the leased premises by LESSEE. Upon demand LESSEE shall, at his own expense, defend the City of Modesto, its officers, agents, volunteers and employees against all such liabilities, claims, demands, actions, losses, damages or cost.

16. TERMINATION BY CITY PRIOR TO EXPIRATION.

(a) ABANDONMENT

If Lessee breaches this lease and abandons the property before the end of the term Lessor shall have the right to terminate this Lease by giving written notice of termination to Lessee. Said notice shall be served on Lessee when the rent on the property has been due and unpaid for at least fourteen (14) consecutive days, and Lessor reasonably believes Lessee has abandoned the property. The notice shall inform the Lessee of the date of termination of the Lease and in no event shall such date be less than fifteen (15) days after the notice is served personally on Lessee or, if mailed, not less than eighteen (18) days after the notice is deposited in the mail.

(b) MATERIAL BREACH

(1) Lessor and Lessee agree that every condition, covenant, and provision of this Lease is material and reasonable. Any breach by Lessee of a condition, covenant or provision of this Lease will constitute a material breach. For any material breach by Lessee, Lessor may provide Lessee with a notice as set forth in subparagraph (a) above, which complies with the time constraints set forth therein and describes the breach and the date of the Lease's termination. Failure on the part of Lessee to pay rent

when due, unless such failure is corrected within a fifteen (15) day period, shall constitute a material breach of the Lease Agreement.

- (2) Should Lessee vacate the Leased Premises and leave any personal property not owned by the Lessor on the premises, City shall not be responsible for the custodial protection of the personal property abandoned, even though it is necessary for City to remove Lessee's personal property from the Leased Premises for either storage or disposal.

(c) LESSOR'S REMEDIES

On such termination, Lessor may recover the following from Lessee:

- (1) The worth at the time of the award of the unpaid rent that had been earned at the time of termination;
- (2) The worth at the time of the award of the amount by which the unpaid rent that would have been earned after termination until the time of the award exceeds the amount of rental loss that Lessee proves could have been reasonably avoided;
- (3) The worth at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of rental loss for that period that Lessee proves could have been reasonable avoided; and
- (4) Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform the obligations under this Lease, or that in the ordinary course of things would be likely to result therefrom.

17. TAXES. LESSEE recognizes and understands that this Lease may create a possessory interest subject to property taxes on such interest. LESSEE further agrees

to pay, without the right to deduct from rental fees provided herein, any and all property taxes, if any, assessed during the term of this lease against LESSEE'S possessory interest in the lease premises.

LESSEE further agrees to pay, without right to deduct from rental fees provided herein, any and all personal property taxes assessed against his property on said leased premises and such portion of any real property taxes as may be levied against improvements owned by LESSEE and erected upon land owned by CITY.

18. DAMAGE TO PREMISES. If said premises are so damaged by fire or from any other cause as to render it untenable, then either party shall have the right to terminate this Lease Agreement as of the date on which such damage occurs, through written notice to the other party, to be given within fifteen (15) days after the occurrence of such damage; except that should such damage or destruction occur as the result of the abuse or negligence of LESSEE or his invitees, so as to render said premises untenable, CITY only shall have this right of termination. The City Manager or his designee is authorized to give notice on behalf of the CITY.

19. COMPLIANCE WITH LAWS. LESSEE shall not do or suffer to be done on or about the leased premises anything that would or does violate or conflict with any applicable law, ordinance, rule or regulation which is now in force or effect or which may hereafter be enacted or adopted by federal, state, county or municipal authority.

20. FAILURE TO VACATE. LESSEE agrees to vacate said premises upon termination of this Lease Agreement, and failing to vacate as herein provided, agrees that CITY, or its authorized agents, may enter upon said property and remove all personal property therefrom and in this event, LESSEE waives any and all claims for damages against CITY, its agents or employees. Nothing herein shall be deemed a waiver of any rights of CITY to demand and obtain possession of said premises in accordance with law in the event of a violation on LESSEE'S part of any of the terms or conditions hereof.

21. CO-PARTNERSHIP DISCLAIMER. It is mutually understood and agreed that nothing in this Lease Agreement is intended or shall be construed as in any way creating or establishing the relationship of co-partners between the parties hereto, or as constituting LESSEE as agent or representative of CITY for any purpose or in any manner whatsoever.
22. WAIVER. Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.
23. ATTORNEY'S FEES. In the event that either party hereto shall commence any legal action or proceeding against the other by reason of the alleged failure of the other to perform any term, covenant, or condition of this Lease Agreement by him to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover a reasonable attorney's fee to be fixed by the court. "The party prevailing" means the party in whose favor final judgement is rendered and "legal action or proceeding" includes arbitration.
24. TIME OF ESSENCE, BINDING UPON HEIRS, ETC. Time is of the essence of each and all the terms and provisions of this Lease Agreement and the terms and provisions of the Lease Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties herein contained shall be joint and several obligations.
25. NUMBER AND GENDER. All words used herein in the singular number shall include the plural and the present tense shall include the future and the masculine gender shall include the feminine.

IN WITNESS WHEREOF, the City of Modesto, a Municipal Corporation, has authorized the execution of this Lease 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 _____, 2003. And LESSEE has caused the Lease Agreement to be executed.

CITY OF MODESTO, a municipal corporation

By _____
Jack R. Crist, City Manager

ATTEST:

By _____
Jennifer Olgiati

By _____
Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO LEGAL FORM:

By _____
Mike Milich, City Attorney

APPROVED AS TO RISK MGMT. FORM:

By _____
Ben Bankard, Acting Risk Manager

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-602**

RESOLUTION AMENDING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA), TO PROVIDE FOR A REVISED METHOD OF IMPLEMENTING EMPLOYEE COST SHARING OF RETIREMENT CONTRIBUTIONS.

WHEREAS, the Board of Arbitrators in the matter of an arbitration under Section 1206 of the Charter of the City of Modesto, between the City and the Modesto City Fire Fighters Association (MCFFA), issued a decision dated May 1, 2002, and

WHEREAS, that decision provided for equal cost sharing between the City and MCFFA for increases in the Normal Cost of retirement benefits above 18.3%, when said increases were due solely to the implementation of the 3% @ 50 retirement formula, and

WHEREAS, such increases in Normal Cost have occurred for FY 02-03 and for FY 03-04, and

WHEREAS, the parties agree to implement the cost sharing provision by delaying for three pay periods the next scheduled across-the-board salary increase for MCFFA, in lieu of making changes to the Employer Paid Member Contribution (EPMC) rate, and

WHEREAS, such a delay will realize for the City approximately the same savings as would have been realized by changes to the EPMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Memorandum of Understanding between the City and MCFFA, expiring December 27, 2004, be amended to provide that the 3% across-the-board salary increase scheduled for December 30, 2003 be delayed until February 10, 2004.

BE IT FURTHER RESOLVED that this delay shall be in lieu of changes to the Employer Paid Member Contributions, and this delay shall fulfill MCFFA's obligation for cost sharing related to increases in the Normal Cost retirement rate under the current MOU.

BE IT FURTHER RESOLVED that the MCFFA MOU shall be amended to terminate the provision for cost sharing of Normal Cost increases, effective June 30, 2004.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-603**

A RESOLUTION APPROVING THE REQUEST OF BERTOLOTTI DISPOSAL, INC. FOR AN ASSIGNMENT AND TWO-YEAR EXTENSION OF THEIR SERVICE AGREEMENT WITH THE CITY OF MODESTO FOR THE COLLECTION OF COMMERCIAL/RESIDENTIAL GARBAGE/RECYCLABLES, CONTAINERIZED YARD WASTE, AND INDUSTRIAL GARBAGE, SALVAGEABLE WASTE, AND RECYCLABLES TO BERTOLOTTI MODESTO DISPOSAL, INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ASSIGNMENT AND EXTENSION.

WHEREAS, on September 25, 2003, the City Clerk received a request from Bertolotti Disposal Inc. for an Assignment and Extension of their Service Agreement to collect commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste, and recyclables in the City of Modesto, and

WHEREAS, Bertolotti Disposal Inc., wishes to assign its rights and interests under said agreement to its newly formed affiliate company, Bertolotti Modesto Disposal, Inc., and

WHEREAS, Bertolotti Disposal Inc. has provided all of the information required by the Modesto Municipal Code and Service Agreement, including the proposed assignee, the types of services offered, the equipment to be used, the financial ability of the assignee to perform the services, and the proposed consideration to the City, and

WHEREAS, staff has reviewed the aforementioned documentation and performed due diligence upon the request, and

WHEREAS, on October 13, 2003, the Economic Development Committee met and supported the request of Bertolotti Disposal Inc., and

WHEREAS, in accordance with Modesto Municipal Code section 5-5.24, a public hearing was held on Thursday, November 13, 2003, at 5:30pm in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, and

WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the City

Council finds that it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willing and financially able to furnish needed solid waste handling services, and

WHEREAS, Sections 5-5.23 through 5-5.33 of the Modesto Municipal Code, inclusive, establish the process by which proposals may be submitted to enter into service agreements with the City, and the procedure by which the City reviews and determines whether to enter into such service agreements, and

WHEREAS, the Modesto Municipal Code section 5-5.32 requires that collection companies obtain written consent from the City Council after a public hearing is held, prior to an Assignment of a Service Agreement,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that an Assignment and Two-Year Extension of the Service Agreement between the City of Modesto and Bertolotti Disposal, Inc. is hereby approved to Bertolotti Modesto Disposal, Inc., for the purposes of providing solid waste collection services of commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste, and recyclables.

BE IT FURTHER RESOLVED by the Council that it hereby authorizes the City Manager, or his designee, to execute the assignment and extension.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-604**

A RESOLUTION TERMINATING THE CURRENT SERVICE AGREEMENT WITH WASTE MANAGEMENT FOR PERFORMANCE DEFICIENCIES, APPROVING THE EXECUTION OF A 1-YEAR INTERIM CONTRACT, AND IMPOSING PENALTIES FOR FAILURE TO PERFORM UNDER THE 1997 SERVICE AGREEMENT

WHEREAS, on November 1, 1997, the City executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was then a subsidiary of USA Waste of California, which later acquired Waste Management and changed the name of the corporate parent to Waste Management, for a term through January 1, 2007, and

WHEREAS, while the term of this Service Agreement with Waste Management was for 10 years, due to concerns about the corporation's problems in other cities, the City Council added a provision to the Service Agreement to allow the City to terminate the agreement on January 1, 2004, if the City found the company did not meet certain performance standards to the satisfaction of the City, and

WHEREAS, Section b.1. of the Service Agreement states the following performance standards must be met to get to the full 10-year term: Timely payment of fees and charges; Delivery of all waste or recyclables to the facilities specified by the City; Satisfactory resolution of complaints; Compliance with all provisions of the Modesto Municipal Code, the Service Agreement, and state, federal, and local laws pertaining to the collection operations; and Service Agreement provisions regarding recycling and yard waste diversion programs, and

WHEREAS, staff notified the company on multiple occasions that substandard performance was occurring and of the need to meet the requirements of the Service Agreement, and

WHEREAS, staff believes the company has violated multiple provisions of Section b.1. of their Service Agreement, and

WHEREAS, on October 13, 2003, the Economic Development Committee met and recommended that the Council terminate Waste Management's Service Agreement, issue an interim contract with the possibility of two, one-year Extensions if they perform to the City's standards, impose penalties for past violations of the Service Agreement, and, if the company continues to fail to perform, either go out to bid or divide the service area between the other collectors effective January, 2006, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.33, the City Council heard said matter at a public hearing, on Thursday, November 13th, 2003, 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 hereby:

1. Terminates the current Service Agreement with Waste Management (D.B.A. Modesto Disposal Service) effective January 1, 2004;
2. Authorizes the City Manager to execute a 1-year interim contract with Waste Management allowing them to continue providing service through January, 2005;
3. Authorizes the City Manager to extend this interim contract for a total of two, 1-year extensions if the company fully complies with the service requirements of the City;
4. Authorizes staff to bill Waste Management to compensate the City for staff time expended in the resolution of customer service complaints; and,
5. If the company fails to comply with the City's service requirements, either go out to bid in 2006 or divide the Waste Management service area among the other collectors effective January 1, 2006;
6. Directs staff to research the possibility of including on the customer's invoice a phone number for Waste Management for complaints as well as the City staff phone number.

BE IT FURTHER RESOLVED, that if the company fails to comply with the City's service requirements during the initial year of the interim contract, the Council hereby directs staff to return with a report recommending that the City either go out to bid in 2006 to provide services in Waste Management's service area, or divide the Waste Management service area among the other collectors effective January 1, 2006.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember O'Bryant who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-605**

A RESOLUTION APPROVING TWO (2), SEVEN (7) MONTH RETAIL ADVERTISING CONTRACTS WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP), TO COINCIDE WITH THE FISCAL YEAR CALENDAR, CONSISTING OF, ONE (1) CONTRACT FOR A 500-COLUMN-INCH "NO-COMMITMENT" ADVERTISING RATE OF \$45.65 PER COLUMN INCH AND THE OTHER CONTRACT FOR A "12X COMMITMENT" BUSINESS PACKAGE ADVERTISING PLAN AT A RATE OF \$24.53 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, the City's Public Information Officer and the Purchasing Supervisor met with the Modesto Bee and based on advertising volume commitments identified two (2) retail contract options which best met the City's retail advertising needs, and

WHEREAS, in November of 2002 staff went before Council with a recommendation to approve both retail advertising contracts, and

WHEREAS, in November of 2002, by Resolution No. 2002-564, Council approved both contracts and authorized the City Manager to sign the one-year contracts, and

WHEREAS, both retail contracts are set to expire in November of 2003, and

WHEREAS, staff 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 with a 5% price increase on both, and

WHEREAS, at its meeting on October 27, 2003, the Finance Committee unanimously supported and recommended renewal of the advertising contracts for a one year term, and,

WHEREAS, Council has requested that seven (7) month retail advertising contracts be put in place to coincide with the fiscal year calendar, and

WHEREAS, the price increase associated with the shorter contract term would put the "non-profit no-commitment" contract rate at \$45.65 per column inch and the "12x-commitment business package" rate at \$24.53 per column inch, and

WHEREAS, once signed, both advertising contracts shall be implemented and tracked by the City's Public Information Officer, and

WHEREAS, the Purchasing Supervisor 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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two (2), seven (7) month retail advertising contracts with the Modesto Bee (McClatchy Newspaper Group), to coincide with the fiscal year calendar, one for a 500 column inch "no-commitment" non-profit rate at \$45.65 per column inch and the other for a "12x-commitment" business package advertising plan at a rate of \$24.53 per column inch.

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 special meeting of the Council of the City of Modesto held on the 13th day of November, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-606**

**A RESOLUTION APPROVING AN EXTENSION OF AN AGREEMENT
BETWEEN THE CITY OF MODESTO AND SUE FISCOE, DBA FISCOE
MANAGEMENT (FM GOLF) AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT**

WHEREAS, the City owns, operates and manages the Municipal Golf Course (“Municipal Course”), Dryden Park Municipal Golf Course (“Dryden Course”), Dryden Park Municipal Golf Course Driving Range (“Dryden Range”), Creekside Municipal Golf Course (“Creekside Course”) and Creekside Municipal Golf Course Driving Range (“Creekside Range”), and

WHEREAS, on March 21, 2000, the City of Modesto and FM Golf entered into an agreement under authority of Resolution No. 2000-131 retaining FM Golf as golf course professional to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, and Creekside Range, and,

WHEREAS, it is the desire of the City of Modesto that FM Golf continue as golf course professional to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course and Creekside Range; and,

WHEREAS, it is the desire of CITY and FM Golf that FM Golf also provide food and beverage concession services at Municipal Course and Dryden Course Clubhouse Concessions, and,

WHEREAS, it is the desire of the City to extend the agreement with FM Golf for a five-year period commencing on July 1, 2003, and terminating on July 1, 2009, with the option to extend the agreement for an additional five-year period, and

WHEREAS, at their June 2, 2003, meeting, the Safety and Communities Committee recommended to continue negotiations with FM Golf and to exercise its right to offer to extend agreements with FM Golf as of June 30, 2003, and

WHEREAS, at their August 4, 2003, meeting, the Safety and Communities Committee recommended a five-year extension of the contract with CITY and FM Golf,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves extending an agreement with FM Golf to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, Creekside Range and to provide concession services at Municipal Course and Dryden Course Clubhouse Concession for a five-year period commencing on July 1, 2003, and terminating on July 1, 2009, with the option to extend the agreement for an additional five-year period.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of November, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-607**

**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 4, 2003,
AND DECLARING THE RESULTS OF SAID ELECTION.**

WHEREAS, on Tuesday, November 4, 2003, 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. One 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;
6. One Board of Education Member for a two year term; and

WHEREAS, as set forth in Section 5 hereof, Measures I and K, were proposed Charter Amendments, and Measures H, L, M and N were Advisory measures, and were submitted to the qualified electors in the November 4, 2003, City of Modesto election, and

WHEREAS, said election was held on Tuesday, November 4, 2003, 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 18, 2003, 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 Chart 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.
Gary Lopez	Member, Modesto Board of Education, for a term of four years.
Connie Chin	Member, Modesto Board of Education, for a term of four years.
Odessa P. Johnson	Member, Modesto Board of Education, for a term of four years.
Robin Brown	Member, Modesto Board of Education, for a term of 2 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, Bob Dunbar and Dave Lopez and the two candidates receiving the highest number of votes for Mayor, Bev Finley and Jim Ridenour, shall have their names on the ballot for a run-off election to be held on Tuesday, December 9, 2003.

SECTION 5. The following votes were cast for Measures H, I, K, L, M, N:

Measure	Total Votes For	Total Votes Against
Measure H: <i>Proposal to direct urban development into the incorporated cities of Stanislaus County.</i>	17,263	8,326
Measure I: <i>Proposed Charter Amendment to change the runoff election date from December of odd-numbered years to March of even-numbered years, commencing with the year 2004</i>	10,503	14,440
Measure K: <i>Proposed Charter Amendment to impose prospectively a two-term limit on the offices of Mayor and Councilmember.</i>	13,337	12,930
Measure L: <i>Proposal extending sewer service to the Empire North Comprehensive Planning District and the Johansen Comprehensive Planning District provided the areas are first annexed to the City.</i>	13510	11,740
Measure M: <i>Proposal extending sewer service to the Kiernan-Carver Comprehensive Planning District provided the area is first annexed to the City.</i>	15,649	9,489
Measure N: <i>Proposal extending sewer service to the Shackelford Infill Area Kiernan-Carver Comprehensive Planning District provided the area is first annexed to the City.</i>	15,209	9,129

Measures H, K, L, M & N. More than a majority of all the votes cast at the election for *Measures H, K, L, M & N* were in favor of said proposed Measures, and said Measures did carry and were approved and were ratified by a majority of the qualified voters voting on said *Measures*.

Measure I. Less 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 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 25th of November, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
Jean Zahr, City Clerk

(Seal)

APPROVED AS TO FORM:

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

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO REGULAR MUNICIPAL ELECTION
November 4, 2003

I, Jean Zahr, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on November 18, 2003, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 4, 2003, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Mayor, Modesto City Council		
Bev Finley	11,513	42.31%
Jim Ridenour	10,254	37.68%
Carmen Sabatino	3,819	14.04%
Steven Grenbeaux	1,608	5.91%
Chair 1, Modesto City Council		
Bob Dunbar	9,630	37.89%
Dave Lopez	9,190	36.15%
Jeff Perine	6,564	25.82%
Chair 3, Modesto City Council		
Garrad Marsh	13,139	50.90%
Bill Conrad	12,637	48.95%
Chair 6, Modesto City Council		
Brad Hawn	16,129	64.43%
Todd Hand	3,946	15.76%
Michael Vanden Bosch	3,134	12.52%
Dale "Gene" Williams	1,772	7.08%

MEASURES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Measure H		
Direct Urban Development into Incorporated Cities of Stanislaus County	17,263	YES
	8,326	NO
		67.46%
		32.54%
Measure I		
Change Runoff to March of Even-numbered Years	14,440	NO
	10,503	YES
		57.89%
		42.11%

Measure K

Term Limits for Mayor & Councilmembers

13,337	YES	50.77%
12,930	NO	49.23%

Measure L

Sewer Service Extension to Empire North & Johansen Comprehensive Planning Districts

13,510	YES	53.50%
11,740	NO	46.50%

Measure M

Sewer Service Extension to Kiernan-Carver Comprehensive Planning District

15,649	YES	62.25%
9,489	NO	37.75%

Measure N

Sewer Service Extension to Shackelford Infill Area

15,209	YES	62.49%
9,129	NO	37.51%

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Member, Modesto Board of Education – 2-year term		
Robin Brown	16,597	58.53%
Armando M. Flores	11,702	41.27%
Member, Modesto Board of Education – 4 year term		
Gary Lopez	16,924	22.20%
Connie Chin	16,575	21.74%
Odessa Johnson	16,531	21.68%
Belinda Rollicheck	11,187	14.67%
Ted Dickason	9,824	12.89%
Ricky McGill	5,158	6.77%

VOTER TURNOUT:

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
City of Modesto Council Seats & Measures H, I, K, L, M, N	90,835	27,845	30.65%
Modesto High School District	114,862	32,143	27.98%

JEAN ZAHR
 City Clerk/Auditor
 City of Modesto

November 19, 2003

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-608**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
PATRICIA AUSTIN FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE
NOVEMBER 25, 2003**

WHEREAS, PATRICIA AUSTIN was appointed a member of the Community Qualities Forum on July 22, 2003; and

WHEREAS, PATRICIA AUSTIN has tendered her resignation from the Community Qualities Forum, effective November 25, 2003; and

WHEREAS, PATRICIA AUSTIN 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 PATRICIA AUSTIN from the Community Qualities Forum 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 PATRICIA AUSTIN 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-609**

**A RESOLUTION APPOINTING DR. DOUGLAS W. CHADWICK 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 10, 2003, and recommended appointment of DR. DOUGLAS W. CHADWICK 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. DR. DOUGLAS W. CHADWICK is hereby appointed to the Citizens Advisory Committee on Recycling 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 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-610**

**A RESOLUTION APPOINTING LINDA S. KENYON 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 November 10, 2003, and recommended appointment of LINDA S. KENYON 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. LINDA S. KENYON 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 newly 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-611**

**A RESOLUTION APPOINTING MEMBERS 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 November 10, 2003, and recommended its approval to appoint ROWDY MATT BRICCO, MICHAEL VANDEN BOSCH and DENNIS BORELLI to the Community Qualities Forum.


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

SECTION 1. ROWDY MATT BRICCO, with a term expiration of January 1, 2005, MICHAEL VANDEN BOSCH, with a term expiration of January 1, 2006, and DENNIS BORELLI, with a term expiration of January 1, 2007 are hereby appointed to the Community Qualities Forum.

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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2002-612**

**A RESOLUTION FOR ACCEPTANCE OF LANDSCAPE AND IRRIGATION
RELATED IMPROVEMENTS IN OLYMPIC PARK NO. 2 SUBDIVISION, IN THE
VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING RELEASE OF TRUST
DEPOSIT**

WHEREAS, City Council Resolution No. 2002-112, granted partial acceptance of subdivision improvements, with exception of landscaping and irrigation improvements, and

WHEREAS, Warren Smith Lawson, Inc., a California Corporation, submitted a Cashier's Check to secure faithful performance and payment for labor and materials associated with landscape and irrigation improvements in the amount of \$22,000.00; and

WHEREAS, Warren Smith Lawson, Inc., a California Corporation, has filed a Cashier's Check in the amount of \$1,470.00 to guarantee the landscape and irrigation improvements in Olympic Park No. 2 subdivision; and

WHEREAS, the Engineering & Transportation Director, in a memorandum to Council dated November 4, 2003, indicates that all landscape and irrigation work required by the Subdivision Agreement, has been completed, to the satisfaction of the Engineering & Transportation Department; and

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the landscape and irrigation improvements in said subdivision as complete, and authorize the City Clerk to file Notice of Completion and release the trust deposit upon expiration of statutory periods.

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

1. The landscape and irrigation improvements in Olympic Park No. 2 Subdivision are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the landscape and irrigation improvements.
2. The City Clerk is hereby authorized to release the security for faithful performance in the amount of \$14,666.00 upon recordation of the Notice of Completion, and is authorized to release the security for payment for labor and materials in the amount of \$7,334.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.
3. The City Clerk is hereby authorized to release the warranty security to guarantee improvements in the amount of \$1,470.00 one year and one day following 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 November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-613**

A RESOLUTION APPROVING A STORM DRAIN LATERAL REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND INLAND VILLAGE RELATED TO THE OVERSIZING OF 756 LINEAR FEET AND INSTALLATION OF 501 LINEAR FEET OF STORM DRAIN LINE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, INLAND VILLAGE, a California general partnership, owns a certain tract of land consisting of approximately 10.2 acres within Stanislaus County, commonly known as Village Highlands No. 7 Subdivision, and

WHEREAS, in connection with the development of the subdivision, Inland Village installed 1,257 linear feet of 30” storm drain lateral, and

WHEREAS, 756 linear feet of the storm drain lateral was oversized and an additional 501 linear feet was installed to accommodate future development and will serve adjacent properties located outside of the subdivision, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with Inland Village to reimburse for oversizing costs, and

WHEREAS, the City has identified those properties to be served by, and which will benefit from, Inland Village’s installation of the storm drain lateral, and

WHEREAS, the owners of the benefited properties have not participated in the construction or installation of the storm drain lateral, and

WHEREAS, the benefited properties have paid or will pay mitigation impact fees to the City as a condition of development, which will include their proportionate share of the cost of constructing said storm drain lateral, and

WHEREAS, Inland Village has requested and City has agreed that they be reimbursed for a portion of its cost to install the storm drain lateral from the monies the City collects through said impact fees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the CITY OF MODESTO and INLAND VILLAGE related to the reimbursement for oversizing a storm drain lateral in the amount of \$43,706.00 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager 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 November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-614**

**A RESOLUTION APPROVING AN AGREEMENT WITH HARRIS &
ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES FOR
CONSTRUCTION OF THE 9TH STREET BRIDGE REPLACEMENT PROJECT
IN THE AMOUNT OF \$2,501,613 AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE AGREEMENT**

WHEREAS, a construction contract was awarded to MCM Construction, Inc., on October 14, 2003 for construction of the 9th Street Bridge Replacement project across the Tuolumne River, and

WHEREAS, the 9th Street Bridge Replacement project is a large specialized project that requires augmentation of the City's capacity to provide construction management and inspection, and

WHEREAS, the selection of a construction management firm followed the City's selection procedures for professional consultants, and the Selection Committee recommended that negotiations begin with Harris & Associates, and

WHEREAS, the State of California Department of Transportation (Caltrans) requires a pre-award audit on consultant contracts involving State and Federal funds, and

WHEREAS, City staff requested that Caltrans perform the audit, and

WHEREAS, said audit has been completed, any necessary modifications made to the contract, and the City has been authorized to proceed with execution of the contract, and

WHEREAS, the fee for construction management services has been negotiated with Harris & Associates for an amount not to exceed \$2,501,613,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Harris & Associates for construction management services during construction of the 9th Street Bridge Replacement project in the amount of \$2,501,613 is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his authorized designee, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-615**

A RESOLUTION REJECTING ALL BIDS FOR THE PROJECT TITLED “ELM STREET BUILDINGS” AND DIRECTING THE PROJECT BE RE-ADVERTISED WITH BOTH NON-PREVAILING WAGES AND PREVAILING WAGES

WHEREAS, the bids received for “Elm Street Buildings,” were opened at 11:00 a.m. on September 9, 2003, and

WHEREAS, during the bid evaluation process staff determined that the bids exceeded the Engineer’s estimate, therefore, staff recommends all bids be rejected and staff be allowed to re-advertise the project with both non-prevailing wages and prevailing wages,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for “Elm Street Buildings,” opened in the office of the City Clerk on September 9, 2003, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project with both non-prevailing wages and prevailing wages at a later date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-616**

**A RESOLUTION APPROVING A CONSENT TO COMMON USE AGREEMENT
WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR A CANAL
CROSSING AT AMERICAN AVENUE AND MID LATERAL NO. 6
(ATTACHMENT A), AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT**

WHEREAS, American Avenue is scheduled to connect to Bangs Avenue in the City of Modesto Urban Area General Plan in Fiscal Year 2005, and

WHEREAS, American Avenue is currently extended only to the Modesto Irrigation District (MID) Lateral No. 6, and

WHEREAS, prior to American Avenue crossing MID Lateral No. 6, the open lateral needs to be placed in underground pipes, and

WHEREAS, MID requires a Consent to Common Use Agreement prior to allowing construction of a new Crossing Facility within the District's right-of-way,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and MID for the American Avenue Crossing Facility within MID Lateral No. 6 right-of-way be, and it 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

AGREEMENT CONSENTING TO COMMON USE

This Agreement is made on _____, 2003, by and between the Modesto Irrigation District, an irrigation district, hereinafter referred to as "District" and the City of Modesto, a municipal corporation, hereinafter referred to as "City."

This Agreement is made with reference to the following facts:

A. District has an interest in certain real property within the City of Modesto consisting of a strip of land with certain improvements, which real property is commonly known as and referred to as District's Lateral No. 6 Right of Way, hereinafter referred to as "Lateral 6".

B. City desires, at City's expense, to install a crossing facility and to make such improvements to the District's Lateral 6 as are necessary to maintain said canal and crossing facility (collectively, the "Crossing Facility"). District currently has a 100' right of way at Lateral 6. The proposed Crossing Facility will be located within District's right of way.

C. The new Crossing Facility will occupy a portion of District's Lateral 6, which portion is hereinafter referred to as the "Area of Common Use", as described in Exhibit "A" and shown in Exhibit "B" attached hereto.

Now, therefore, IT IS AGREED as follows:

1. District, pursuant to the terms and conditions hereinafter set forth, hereby consents to the City's construction of the Crossing Facility within the Area of Common Use.

2. City acknowledges District's interest in District's property and facilities situated at Lateral 6 within the Area of Common Use. District has and maintains the right to make full use of District's property and facilities in the Area of Common Use without need for any further permit or permission from City.

3. Except as specifically provided for in this Agreement, no alteration, improvement, installation, construction or use shall be made or permitted by City in, on, over, under, along, across, or in respect to the Area of Common Use or any other property or facility of District, without the prior written consent of District. City shall have no license, right or privilege with respect to the Area of Common Use, or any other property or facility of District, other than the permission and privileges expressly granted by this Agreement.

4. The construction of the Crossing Facility consented to in Paragraph 1 of this Agreement shall be in compliance with the provisions of this Agreement and shall be coordinated with District's Water and Electric Operations Divisions.

5. City shall obtain District's approval of any and all facilities, construction plans and schedules, including the names and telephone numbers of the contractors, inspectors and the project manager, for making improvements within the Area of Common Use prior to the commencement of any work within the Area of Common Use; provided, however, that such

approval shall not unreasonably be withheld. District may, at its discretion, but is not required to, inspect any and all work performed by City, or City's employees, agents or contractors, in the Area of Common Use. District's rights hereunder to inspect and approve shall not impose any duty or obligation on District, nor shall such rights relieve City of the sole responsibility for the facilities, plans, schedules or work, or relieve City of its contractual responsibilities hereunder.

6. City shall pay District for all reasonable time spent in reviewing plans, inspecting City's work performed in, along, under or near the Area of Common Use, or ensuring compliance of the terms and conditions of this Agreement. The amount charged shall not exceed the employees' weighted labor rate plus other costs actually incurred. Payment shall be made by City within thirty (30) days of submission of an invoice.

7. City shall not perform any work within the Area of Common Use during any irrigation season which would interfere with the delivery of irrigation water. The parties hereto are mindful of the fact that District's irrigation season ordinarily, but not necessarily, ends late October and begins the first of March of the following year.

8. Inasmuch as District's irrigation facilities within the Area of Common Use will have been changed by City pursuant to this Agreement, City agrees to maintain, repair or replace such at City's expense in a timely manner as and when such maintenance, repair or replacement is necessary, unless such maintenance, repair or replacement is made necessary by negligent or wrongful acts of District, its agents, contractors or employees. In no event shall the City be liable for any betterment, changes or alterations in said facility made by or at the request of District for District's sole benefit.

9. Prior to any excavation by City within the Area of Common Use, whether at the time of construction of the Crossing Facility or during subsequent periods or instances of maintenance, City or its contractor shall contact District and the Underground Service Alert (U.S.A. - 1-800-642-2444) for the purpose of determining the location of underground facilities, equipment and other improvements within said Area of Common Use. City shall be solely responsible for locating all underground improvements during construction and maintenance of the Crossing Facility within the Area of Common Use.

10. Except as otherwise set forth herein, the Crossing Facility shall, as between City and District, be the property of City and City shall have the sole responsibility and liability for said Crossing Facility. City shall at all times maintain, at its own cost and expense, the Crossing Facility. City agrees to assume the sole and exclusive risk for damage to property or injury or death to any persons, arising from, or in any way related to, the City's maintenance of or failure to maintain the Crossing Facility. The District shall have no duty or obligation to maintain the Crossing Facility.

11. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any of District's rights in its property or facilities. Both City and District shall use the Area of Common Use in such a manner as to not interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which District or City may now have, or may hereafter acquire, resulting from the construction of additional facilities or the alteration of facilities by

either City or District in such a manner as to cause an unreasonable interference with the use of the Area of Common Use by the other.

12. Except in emergencies, District shall give reasonable notice to City before performing any work on District's property or facilities in the Area of Common Use. No additional permit will be required to do such work, provided, that in all cases, District shall make adequate provision for the protection of the traveling public when performing work on the District's property or facilities in the Area of Common Use.

13. If the construction, use or maintenance of the Crossing Facility, or any portion thereof, causes damage, injury or degradation of the Area of Common Use, or District's property or facilities on or around the Area of Common Use, City shall, at its sole cost and expense, repair said damage, injury or degradation upon notice by the District. Any such repair shall be performed in a timely manner and shall be in strict accordance with plans acceptable to the District.

14. (a) City shall defend, indemnify and hold District, its directors, officers, agents and employees, and each of them, harmless from and against any and all damages, losses, claims and liabilities arising from any act, omission or negligence of City or City's agents, contractors or employees, or any of them, or arising from any accident, injury, or damage whatsoever caused to any person or property, occurring in, or in any manner connected directly or indirectly with, the performance this Agreement or the installation, operation or maintenance of the Crossing Facility, and from and against all costs, expenses, liabilities and attorneys' fees incurred in, or in connection with, any such claim or proceeding brought thereon.

(b) City shall promptly pay District, on demand, full money compensation for any damage to any of District's property or facilities caused by, or in any manner connected directly or indirectly with, the performance of this Agreement or the installation, operation or maintenance of the Crossing Facility.

15. In the event that District is required to relocate any District facilities in order for City to install, maintain or operate the Crossing Facility, District shall, at City's sole expense, perform such relocation, provided, however, that no relocation of District facilities shall be performed until District receives and records appropriate easements, satisfactory to District, for District's relocated facilities.

16. City shall have the right to allow utility companies to install their facilities within the existing Lateral 6 right of way provided, however that any utility wishing to install their facilities within the Area of Common Use will be required to enter into an agreement permitting such installation with the District prior to the commencement of any work.

17. It is expressly understood and agreed that this Agreement shall operate to give City the rights herein provided for only insofar as District may do so under and by virtue of the rights that District has in that portion of District's Lateral 6 real property to which this Agreement applies. It is further expressly understood and agreed that this Agreement is made without representation or warranty of any kind.

18. District makes no representation as to, and does not warrant, the condition of Lateral 6, either at the inception of this Agreement or as to any future point in time. Nothing in this Agreement shall be construed as creating or imposing upon District any duty or obligation to maintain or repair the Area of Common Use or the District's Lateral 6.

19. This Agreement is made solely for the benefit of City, and it is not made for the benefit of any person, firm, association, corporation or public entity not a party hereto, and no person, firm association, corporation or public entity other than City shall have any right to enforce this Agreement.

20. This Agreement contains all the agreements of the parties hereto and cannot be amended or modified except by a written agreement executed by the parties.

21. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties; provided, however that neither party shall assign its rights or obligations hereunder without the prior consent of the other party.

22. Time is of the essence of each provision of this Agreement.

23. All exhibits referred to in this Agreement are attached hereto and incorporated herein by reference.

24. In the event that the Area of Common Use is no longer used by City for the purposes agreed, City at its expense, shall remove City's improvements or take other closure action acceptable to District, and restore the Area of Common Use to its original condition or to a condition acceptable to the District. At such time as the Area of Common Use is no longer used by City for the purposes agreed, all rights granted to City hereunder shall terminate.

25. If any of City's privileges or duties are to be exercised or performed by any independent contractor or contractors, City shall, effectively and appropriately, bind such contractor or contractors, contractually to the duties and obligations of City hereunder. In that connection, City shall among other requirements, require said contractor or contractors, to indemnify, defend and hold District harmless from and against any and all claims, damages, loss, liability and expenses, including court costs and attorney's fees, arising out of or on account of, any injury to or death of any person or persons, or damage to property of any kind whatsoever and to whosoever belonging, arising out of, in any manner directly or indirectly connected with, said contractors or contractors acts or omission in exercising City's privileges or performing City's duties created by the Agreement.

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. 2003- _____, adopted by the Council of the City of

Modesto on the day of November, 2003, and MODESTO IRRIGATION DISTRICT, an irrigation district, has caused this Agreement to be executed in duplicate, effective as of the date first written above. first above written.

CITY OF MODESTO, a
municipal corporation

MODESTO IRRIGATION DISTRICT, an
irrigation district

By:

By:

JACK CRIST, City Manager

President

APPROVED AS TO FORM:

By:

By:

Secretary

MICHAEL D. MILICH, City Attorney

By:

Approved as to Form – Counsel

ATTEST:

By:

JEAN ZAHR, City Clerk

EXHIBIT "A"

Legal Description

M.I.D. Lateral No. 6 Bridge Crossing at American Avenue

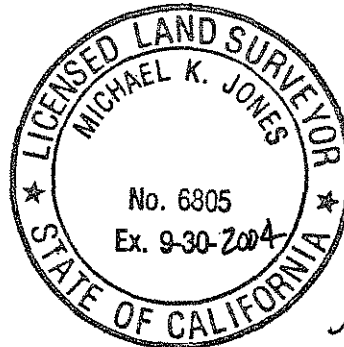
A strip of land, 64.00 feet in width, being a portion of the Modesto Irrigation District Lateral No. 6, situate in Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, the centerline being more particularly described as follows:

Beginning at the intersect of the south right of way line of M.I.D. Lateral No. 6 with the North-South interior section line of said Section 1 as shown on the Parcel Map filed for record at Volume 50 of Parcel Maps, at Page 13, Stanislaus County Records; thence North 00°24'20" West, along said North-South line, a distance of 100.00 feet to a point on the north right of way line of said M.I.D. Lateral No. 6 and the terminus of the herein described strip of land.

The sidelines of said 64.00 wide strip of land being shortened or extended to terminate at the north right of way line and the south right of way line of said M.I.D. Lateral No. 6 .

Containing 6,400 square feet, more or less.

END DESCRIPTION

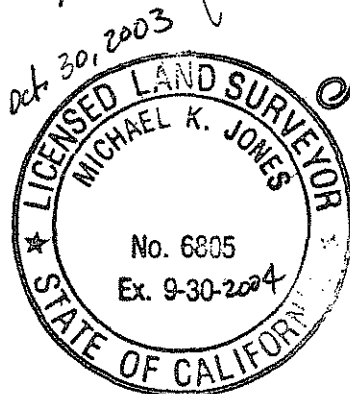
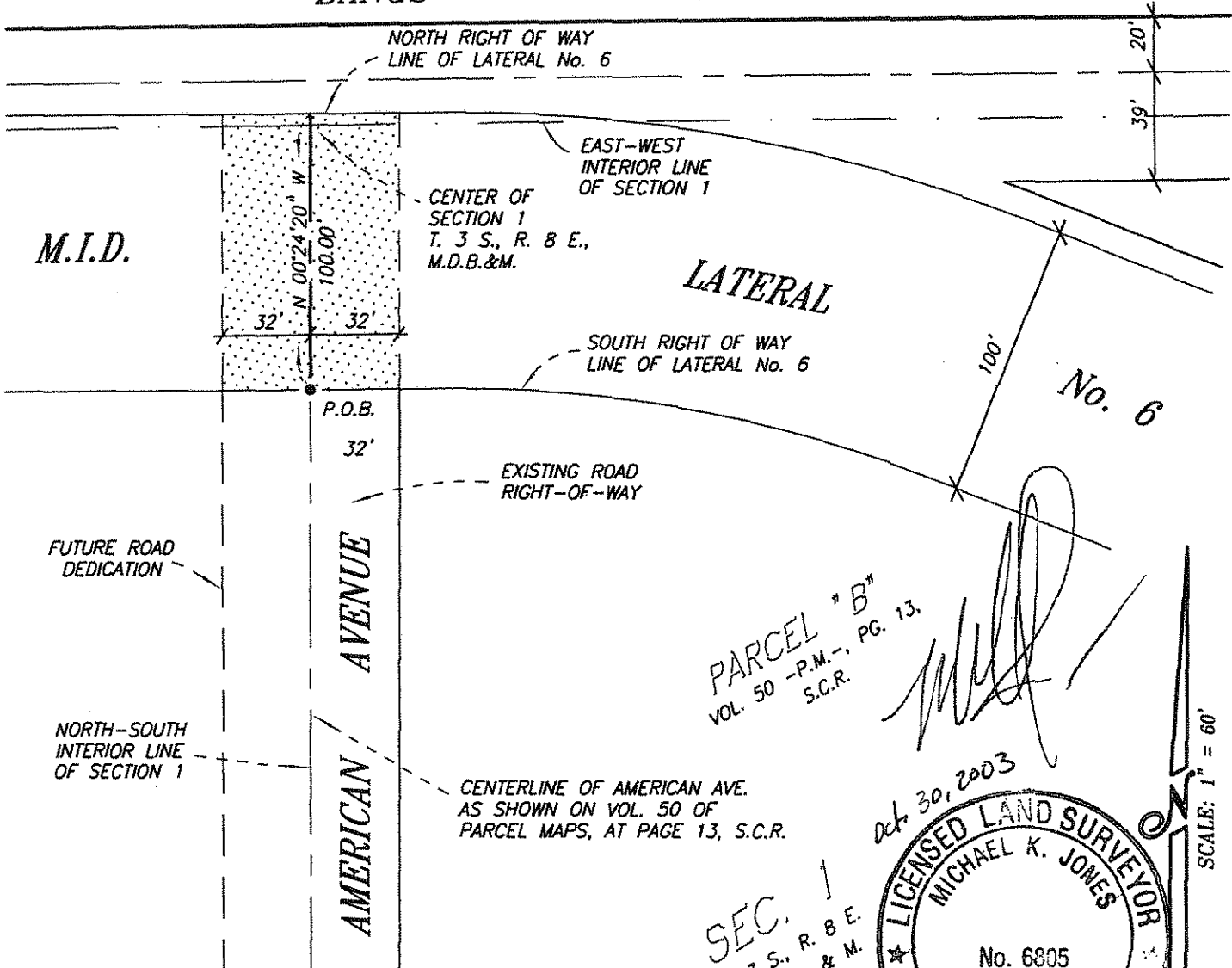


Oct. 30, 2003

A handwritten signature in black ink, appearing to be "M. Jones", written over the seal and extending to the right.

BANGS

AVENUE



North Star

Engineering Group, Inc

• CIVIL ENGINEERING • SURVEYING • PLANNING •

900 H Street, Suite G Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO. 02-021

DATE SEPTEMBER 24, 2003

SCALE 1" = 60'

DR. BY M. JONES

FILE: 02-021 LEG1.DWG

EXHIBIT "B"

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-617**

A RESOLUTION ADOPTING AN INITIAL STUDY FOR THE AMERICAN AVENUE / MID LATERAL NO. 6 CANAL CROSSING IN THE CITY OF MODESTO, AND ADOPTING A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL REVIEW DOCUMENT (ATTACHMENT B)

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, 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 Engineering and Transportation Department, by Initial Study, EA/ET 2003-31, reviewed the proposed American Avenue / MID Lateral No. 6 Canal Crossing, 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 may be required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed meeting held on the 25th day of November, 2003, 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 American Avenue / MID lateral No. 6 Canal Crossing, a copy of which is attached hereto as **Attachment "B"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The proposed American Avenue / MID Lateral No. 6 Canal Crossing is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the American Avenue / MID Lateral No. 6 Canal Crossing that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed American Avenue / MID Lateral No. 6 Canal Crossing that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the American Avenue / MID Lateral No. 6 Canal Crossing that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR 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 Engineering and Transportation 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

ATTACHMENT "B"

INITIAL STUDY

EA/ET 2003-31

**City of Modesto
Initial Study**

**American Avenue / MID Lateral No. 6
Canal Crossing**

E.A./E.T. No: 2003-31

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

A. Project title:

American Avenue / MID Lateral No. 6 Canal Crossing

B. Lead agency name and address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact person, address and phone number:

Dean Phillips, Engineering and Transportation Department, (209) 577-5260

D. Project Location:

American Avenue / Modesto Irrigation District Lateral No. 6, South of Bangs Avenue.

E. Project sponsor:

City of Modesto, P.O. Box 642, Modesto, CA. 95353

F. General Plan Designation:

Business Park
Village Residential

G. Zoning:

Specific Plan (SP-O)
Village Residential

H. Description of Proposed Project:

This is an application to extend American Avenue to Bangs Avenue over the Modesto Irrigation District Lateral No. 6. The project will install 2-66" diameter pipes and underground the existing open canal at American Avenue. American Avenue will then be constructed and connected to Bangs Avenue.

I. Surrounding land uses:

American/Bangs: The project is bounded on the West by an agricultural area (walnut trees) within the City of Modesto. The land will be zoned Business Park to conform to the Modesto Urban Area General Plan. The project is bounded on the East by vacant land owned by the Calvary Chapel Of Modesto, and is currently zoned Village Residential. The project is bounded on the North by an agricultural area with in Stanislaus County.

J. Other public agencies whose approval is required:

None.

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The American Avenue / MID Lateral No. 6 Canal Crossing project proposes public improvements consistent with the General Plan designation for this site. The proposed project's canal crossing would be within existing Modesto Irrigation District right-of-way. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are, therefore, still valid.

C. Generation of Noise

Because the proposed use is consistent with the General Plan in land use and intensity, the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. The project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are therefore still valid.

D. Loss of Productive Agricultural Land

Portions of this project are located in an agricultural portion of Modesto and Stanislaus County. The project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) are still valid.

E. Increased Demand for Water Supplies

The proposed project will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed project will create no additional 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.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located within agricultural lands, however it is not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant

habitat above and 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The proposed intersection improvements and traffic signals will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are therefore still valid.

L. Increased Demand for Schools

The proposed intersection improvements and traffic signals will not create any additional demand for schools. 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 still valid.

M. Increased Demand for Police Services

Because the project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. 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.

N. Increased Demand for Fire Services

Because the project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are therefore still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. 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.

P. Generation of Hazardous Materials

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. 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-16-15) are therefore still valid.

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.

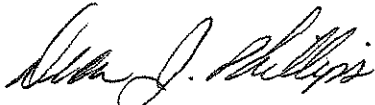
R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed American Avenue / MID Lateral No. 6 Canal Crossing is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the American Avenue / MID Lateral No. 6 Canal Crossing that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed American Avenue / MID Lateral No. 6 Canal Crossing that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the American Avenue / MID Lateral No. 6 Canal Crossing that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR 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.

Signature:



Dean J. Phillips,
Sr. Civil Engineer

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -618**

A RESOLUTION APPROVING AN AMENDMENT TO A PROFESSIONAL SERVICE CONTRACT WITH MEAD & HUNT, INC., AIRPORT ENGINEERS, IN THE AMOUNT OF \$22,000 TO PROVIDE CONSTRUCTION ENGINEERING SUPPORT SERVICES FOR THE ELECTRICAL VAULT BUILDING/ EMERGENCY GENERATOR PROJECT AT THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, the Modesto City Council entered into a professional services contract with Mead and Hunt, Inc. on December 6, 2001 for the design of the Electrical Vault Building/Install Emergency Generator project at the Modesto City-County Airport, and

WHEREAS, said professional services contract contemplated the need for an Amendment to Agreement to provide for Construction Engineering Support Services during the actual construction of the project, and

WHEREAS, the firm of Mead & Hunt, Inc. completed the design portion of their contract for the City, and the firm possesses the technical expertise required to provide Construction Engineering Support Services, and

WHEREAS, the City Council awarded a construction contract to the Clayborn Contracting Group on September 23, 2003, indicating construction is imminent, and

WHEREAS, staff has negotiated what is considered reasonable fees under a not-to-exceed contract approach for Construction Engineering Support Services with Mead & Hunt, Inc., and

WHEREAS, the City Attorney's Office finds the terms of the contract amendment acceptable, and

WHEREAS, City staff has received the Federal Aviation Administration's verbal approval to allow Mead and Hunt, Inc. to provide these services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to professional services contract amounting to \$22,000 for Mead & Hunt, Inc. to provide Construction Engineering Support Services for Modesto City-County Airport's Electrical Vault Building/Emergency Generator project.

BE IT FURTHER RESOLVED that the City Manager or his authorized designee is authorized to execute the amendment to the professional services contract with Mead & Hunt, Inc. on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-619**

**A RESOLUTION AWARDING BID AND APPROVING A \$216,584
CONSTRUCTION CONTRACT WITH RICHARD A. HEAPS FOR THE
PROJECT ENTITLED "INSTALLATION OF TRAFFIC SIGNAL DETECTOR
LOOPS"**

WHEREAS, the bids received for the "Installation of Traffic Signal Detector Loops" project were opened at 11:00 a.m., on October 21, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of \$216,584 received from Richard A. Heaps be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of Richard A. Heaps, be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-620**

A RESOLUTION FINDING THAT THE “INSTALLATION OF TRAFFIC SIGNAL DETECTOR LOOPS” PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (MEIR), SCH NO. 1999082041

WHEREAS, on March 4, 2003, the City Council of the City of Modesto adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report (MEIR), (SCH No. 1999082041), for the Modesto Urban Area General Plan, is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act (CEQA) Guidelines, and, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for an MEIR, 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 MEIR, whether the subsequent project was described in the MEIR, and whether the subsequent project was described in the MEIR as being within the scope of the project, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2003-28, reviewed and proposed the “Installation of Traffic Signal Detector Loops” project, which determines that the proposed project is within the scope of the project covered by the MEIR, that the proposed project will have no additional, significant effect on the environment that was not identified in the MEIR, and that no new or additional mitigation measures or alternatives may be required, and

WHEREAS, on September 12, 2003, the Engineering and Transportation Department caused to be published public notification of the determination conferred in Initial Study EA/ET No. 2003-28, pursuant to Public Resources Code Section 21092, and

WHEREAS, said matter was considered by the City Council at a duly noticed meeting which was held on November 25, 2003, 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 EA/ET 2003-28, prepared for the proposed "Installation of Traffic Signal Detector Loops" 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 project is consistent with the City of Modesto General Plan and is within scope of the project covered by the General Plan Final MEIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed traffic signal project that were not previously examined in the General Plan Master EIR.
- C. No new or additional mitigation measures or alternatives will be required as a result of the proposed traffic signal project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to this traffic signal project that require specific mitigation measures. All certified mitigation measures identified in

the General Plan Master EIR will apply Citywide, including this project, as appropriate.

- E. The Initial Study, Environmental Assessment No. EA/ET 2003-28, provides substantial evidence to support findings A through D above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a Notice of Approval 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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

City of Modesto
Initial Study

INSTALLATION OF TRAFFIC SIGNAL DETECTOR LOOPS AT VARIOUS LOCATIONS
E.A./E.T. No: 2003-28

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

A. Project Title:

Installation of Traffic Signal Detector Loops at Various Locations ("Project")

B. Lead Agency Name and Address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact Person, Address, and Phone Number:

Steven Liu, Engineering and Transportation Department, (209) 577-5297

D. Project Location:

25 Intersection Locations throughout the City (see attached the list of the intersections)

E. Project Sponsor:

City of Modesto, P.O. Box 642, Modesto, CA 95353

F. General Plan Designation:

Varied, depending upon the locations.

G. Zoning:

Varied, depending upon the locations.

H. Description of Proposed Project:

The City is proposing to install traffic detector loops at 25 intersections throughout the City, which currently have signal controls. The addition of traffic signal detector loops will help increase safety and efficiency of traffic signal operation at these signalized intersections.

There will be no expected negative impact of the proposed project to the environment. Rather, the project will help reduce traffic congestion and vehicle emission, consequently improving air quality.

I. Surrounding Land Uses:

Varied, depending upon the locations.

J. Other Public Agencies Whose Approval is Required:

None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR.

A. Traffic and Circulation

The Project will not result in a physical change to any existing land use. It is consistent with the General Plan designation for this site. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.

B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The Project will not result in a physical change to any existing land use. The

proposed use is consistent with the General Plan in land use and intensity, and the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. Therefore, the project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are, therefore, still valid.

D. Loss of Productive Agricultural Land

All existing Traffic Signals are located in developed areas outside of productive agricultural land. Therefore, the project is consistent with the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-12) and they are, therefore, still valid.

E. Increased Demand for Water Supplies

The proposed Project includes traffic signal related improvements, and will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed Project includes traffic signal related improvements and maintenance, and will create no additional 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.

G. Loss of Sensitive Wildlife and Plant Habitat

All existing Traffic Signals are located in developed areas and are not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the

Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The proposed improvements will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore, still valid.

L. Increased Demand for Schools

The proposed improvements will not create any additional demand for schools. 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 still valid.

M. Increased Demand for Police Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. 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.

N. Increased Demand for Fire Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. 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.

P. Generation of Hazardous Materials

This proposed use will not result in additional hazardous materials generated beyond those identified in the MEIR. 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-16-15) are, therefore, still valid.

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. 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.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed Installation of Traffic Signal Detector Loops at Various Locations project is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.
- B. No additional significant environmental effects will occur as a result of the Installation of Traffic Signal Detector Loops at Various Locations project that were not previously examined in the General Plan Master EIR.

- C. No new mitigation measures or alternatives will be required as a result of the proposed Installation of Traffic Signal Detector Loops at Various Locations project that were not previously considered in the General Plan Master EIR.
- D. There are no specific features unique to the Installation of Traffic Signal Detector Loops at Various Locations project that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR 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.

Signature:

L. Steven Liu
Assistant Traffic Engineer

LIST OF LOCATIONS FOR LOOP INSTALLATION

1. Briggsmore Avenue & Carver Road
2. Briggsmore Avenue & Sunrise Avenue
3. College Avenue & Granger Avenue
4. Sylvan Avenue & Coffee Road
5. G Street & 10th Street
6. G Street & 11th Street
7. G Street & 12th Street
8. G Street & 14th Street
9. G Street & 17th Street
10. G Street & Burney Avenue
11. K Street & Needham Street
12. La Loma Avenue & Burney Street
13. La Loma Avenue & Santa Ana Avenue
14. Needham Street & 11th Street
15. Needham Street & 12th Street
16. Needham Street & L Street & 15th Street
17. Oakdale Road & Merle Avenue
18. Oakdale Road & Orangeburg Avenue
19. Orangeburg Avenue & Coffee Road
20. Salida Boulevard & Broadway Avenue
21. Scenic Drive & Bodem Street
22. Scenic Drive & Rose Avenue
23. Standiford Avenue & Conant Avenue
24. Tuolumne Boulevard & Roselawn Avenue
25. Creekwood Drive & Claus Road

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-621**

A RESOLUTION APPROVING AN AGREEMENT WITH MINAGAR & ASSOCIATES TO PROVIDE CONSULTANT SERVICES FOR THE “TRAFFIC SIGNAL SYNCHRONIZATION DOWNTOWN MODESTO,” PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City has determined that a Traffic Signal Synchronization Study for traffic signals in downtown Modesto should be prepared for the City to improve traffic signal synchronization, and

WHEREAS, the City of Modesto applied for and received Congestion Mitigation Air Quality (CMAQ) funds for the project, and

WHEREAS, the City of Modesto sent a Request For Proposals (RFP) to qualified consultants, and

WHEREAS, a selection panel appointed by the Engineering and Transportation Director reviewed the proposals, and

WHEREAS, the selection panel recommended Minagar and Associates be awarded the Traffic Signal Synchronization Downtown Modesto project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Minagar & Associates for consulting services for the City of Modesto Traffic Signal Synchronization Downtown Modesto project be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, 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 November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-622**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
ISSUE A REQUEST FOR BID FOR FIFTEEN (15) VEHICLES AND ONE (1)
ROTARY MOWER**

WHEREAS, the Operations and Maintenance Department-Fleet Services is requesting the purchase of fifteen (15) vehicles and one (1) rotary mower, and

WHEREAS, three (3) hybrid gas/electric sedans will be used by the City Hall Motor Pool, and

WHEREAS, the four (4), ½ ton extended cab pickups will be used by the Police Department Community Service Officers, and

WHEREAS, the three (3), 62000 Gross Weight Vehicles (GWV) pickups will replace pickups used by Building Inspectors, and

WHEREAS, the one (1) extended cab, 2WD pickup will replace a sedan that is used by the Neighborhood Preservation Unit, and

WHEREAS, the users of the sedan have determined that a pickup is more suitable for the work being performed by the crews, and

WHEREAS, one (1) full-size, 4WD pickup will be used by the Industrial Waste Division, and

WHEREAS, one (1) full size 2WD pickup is an additional vehicle and will be used by the Community Forestry Division, and

WHEREAS, one (1) ¾ ton crew cab pickup will be used by the Police Department, Traffic Unit, and

WHEREAS, the one (1) rotary mower will be used by the Parks Maintenance Crews to mow city parks and other grass fields, and

WHEREAS, the rotary mower will replace a 1997 mower that has reached the end of its useful life and has become unreliable and costly to maintain,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for fifteen (15) vehicles and one (1) rotary mower is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for fifteen (15) vehicles and one (1) rotary mower 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.

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 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-623**

**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 following classification:

Airport Manager

The job specification for this classification is being amended as a result of updating the job specification in anticipation of opening a recruitment. The 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 November 25, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

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 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 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:

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 insure the carrying out of a proper preventive maintenance program; coordinate maintenance activities with the airlines and Federal Aviation Administration.

Monitor aircraft operations for compliance with local, State and Federal laws.

Issue notices regarding the status of the airport.

EXAMPLES OF DUTIES (continued)

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.

Handle daily business transactions including answering correspondence, responding to complaints, ordering supplies, and certifying payroll records.

Negotiates and administers lease agreements with Fixed Based Operators, tenant hanger 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.

Prepare the airport budget; 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 advisory committees, public organization, and representatives of government agencies.

Prepare applications for Federal and State grants; monitors the grant programs to ensure compliance with requirements.

Maintain records of airport operations; prepare reports.

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.

QUALIFICATIONS (continued)

Knowledge of:

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.

Work under the pressure of deadlines; analyze, research, and solve a wide range of problems.

Establish and maintain airport security and certification programs.

QUALIFICATIONS (continued)

Ability to:

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.

WORKING CONDITIONS:

Environmental Conditions:

Office and field environment.

WORKING CONDITIONS: (continued)

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.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-624**

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(563). (PRATT)

WHEREAS, a verified application for an amendment to Section 28-3-9 of the Zoning Map was filed by Michael Pratt on July 2, 2003, to reclassify from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), to allow a two-story professional office building, property located on the east corner of 16th and G Streets, described as follows:

P-D(480) to P-D(563)

All that certain real property situate in a portion of the southwest Quarter of Section 28, 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:

Lots 25, 26, 27, 28, 29, 30, 31, and 32, in block 128 of the City of Modesto, according to the Official Map thereof, filed in the Office of the Recorder of Stanislaus County, California, on April 18, 1903, in Volume 1 of Maps, at Page 82.

Including also all of the Northeast one half of 80.00 foot wide 16th Street, Southeast one half of 80.00 foot wide G Street and the Southwest one half of the adjacent 20.00 foot wide alley and all immediately adjacent to the above described property

WHEREAS, after a public hearing held on October 6, 2003, 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. 2003-62, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed office development is consistent with the expanding commercial core of downtown Modesto.

2. The proposed office development is consistent with the current General Plan land use designation for the site.

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 25, 2003, 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 Michael Pratt for a Planned Development should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2003-62 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3337-C.S. on November 25, 2003, reclassifying the above-described property from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563).

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(563), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Commercial Office Building 16th and G Streets" 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 Neighborhoods Director. Provision shall be made for the installation and maintenance of one deciduous shade-giving tree for every eight parking stalls, evenly distributed. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to the issuance of certificate of occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.
4. Prior to the issuance of Certificate of Occupancy, a six-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on centers shall be constructed along the southeast property line.
5. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.
6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.
7. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.
8. Prior to issuance of a building permit, improvement plans for required improvements, including, but not limited to, improving the alley access to/from G Street to the City's Standard for a commercial drop-curb type, shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
9. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.
10. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection 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.

11. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.
12. 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 stormwater 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.
13. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employ-ees, 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.
14. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.
15. All signs shall comply with the sign requirements of the P-O Zone.
16. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. 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.

17. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
18. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(563):

The entire construction program be accomplished in one phase, construction to begin on or before November 25, 2005 and completion to be not later than November 25, 2006.

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(563), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael Milich
MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: [Signature]
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-625**

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 28-3-9 OF THE ZONING MAP TO REZONE PLANNED DEVELOPMENT ZONE, P-D(480), TO PLANNED DEVELOPMENT ZONE, P-D(563) PROPERTY LOCATED ON THE EAST CORNER OF 16TH AND G STREETS (PRATT)

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, Michael Pratt of Pratt-Navarro Architect, on behalf of George Simvoulakis has proposed that the zoning designation for property located on the east corner of 16th and G Streets be amended to rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), in the City of Modesto (“the project”) to allow a two story professional office 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 & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2003-82 reviewed the proposed amendment to the Zoning Map and rezone, to P-D(563) 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 October 31, 2003, 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 25, 2003, 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(563) 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 25th day of November, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A

Initial Study

EA/C&ED 2003-82

City of Modesto
Initial Study

P-D –16th Street Office
EA/C&ED 2003-82
September 18, 2003

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effects on the environment that were not examined in the General Plan Master EIR. This Initial Study also provides documentation that the project is within the scope of the General Plan Master EIR.

II. PROJECT DESCRIPTION

- A. Project title:
P-D – 16th Street Office
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person and phone number:
Josh Bridegroom, Community and Economic Development Department, (209) 571-5540
- D. Project Location:
East corner of 16th and G Streets.
- E. Project Sponsor:
Mike Pratt, 1720 G Street, Modesto California 95354
- F. General Plan Designation:
Redevelopment Planning District
- G. Current Zoning:
P-D(480)
- H. Description of Proposed Project:
This is an application to rezone P-D(480) to Planned Development to allow for the development of a 22,726-square-foot, two-story office building. The project is proposed to gain access to 16th Street via a new drive approach at the south corner of the property and access to G Street via the existing alley at the north corner of the property. The applicant is proposing 40 parking stalls in conjunction with this development.
- I. Surrounding land uses:

The project is surrounded by 16th Street to the northwest, a commercial parking lot, multi-family residence and vacant lot to the northeast, a single-family residence to the southeast, and G Street to the southwest.

- J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity. However, the number of parking spaces proposed is five fewer than what is required by City Standards. This was determined to have a less than significant impact on traffic and circulation, as the overall traffic volume generated by this project is still consistent with the assumptions in the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since the traffic impacts are less than significant, there would be no change needed in the Degradation of Air Quality section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. This project will not generate noise greater than what was anticipated by the EIR, in that it is in an area that was anticipated to transition into high-intensity office and commercial uses. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. The proposed

office complex is consistent with the General Plan designation for the site in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are still valid.

F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, 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 still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, 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 still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that the area where the project is proposed, 16th and G Streets, is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. For example, the project will provide on-site treatment of storm water in accordance with the City's guidance manual for new development stormwater quality control measures. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V- 9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as redevelopment planning district. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V 10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. The proposed two story office building is consistent with the General Plan in terms of land use and intensity. In addition, the proposed office is relatively high in density, thereby promoting the reservation of open space. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project, being non-residential, would not generate any additional demand for schools. Therefore, 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 still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed office building is consistent with the General Plan with regard to land use and intensity. Furthermore, office buildings generally do not generate very much demand for police services. Therefore, 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 still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, the site plan for the proposed office project was referred to the appropriate waste management company and they did not express any concerns with the proposal. Therefore, 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 still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This two story office project is consistent in land use and intensity with the General Plan designation for the site. Furthermore, general offices typically do not generate much hazardous material. Therefore, 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-16-15) are still valid.

Q. Landslides and Seismic Activity

This proposed office development will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR, in that it is consistent with the general plan designation for the site. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.


R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. The proposed office building at 16th and G Streets is consistent with the general plan designation for the site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).
- B. No additional significant environmental effects will occur as a result of the proposed project that were not previously examined in the General Plan Master EIR.
- C. No new mitigation measures or alternatives will be required as a result of the proposed project that were not previously considered in the General Plan Master EIR.
- D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.
- E. This Initial Study provides substantial evidence to support findings A, B, C, and D above.

Signature:


Josh Bridegroom,
Assistant Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-626**

**A RESOLUTION CONDITIONALLY VACATING AND ABANDONING THE
PORTION OF BEYER PARK DRIVE RIGHT-OF-WAY BETWEEN
CLARATINA AVENUE AND INSPIRATION DRIVE AND RESERVING
UTILITY EASEMENTS WITHIN THE SUBJECT RIGHT-OF-WAY
(FROWEIN; CHAMBERS)**

WHEREAS, Naja & Michael Frowein and Maurice Chambers have filed an application to vacate and abandon a portion of the Beyer Park Drive right-of-way, between Inspiration Drive and the future path of Claratina 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 the project applicants with the abandonment request which shows that fee title to the property underlying the proposed abandonment belongs to the adjacent land owners who are proponents 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, utility easements exist within the subject right-of-way that must be retained sufficient in width to serve existing utility lines and to allow continued maintenance of said lines, and

WHEREAS, Government Code Section 65402 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 public hearing was held by the Planning Commission on October 20, 2003, 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. 2003-63, 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 alley, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, November 25, 2003, 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 in the proposed right-of-way abandonment area 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

WHEREAS, a hearing notice has been published in the Modesto Bee and posted at the project site for two successive weeks prior to the Council hearing in accordance with State of California Streets and Highways Code, Section 8300 through 8363, and

WHEREAS, the Council of the City of Modesto has determined that the Proposed Abandonment be approved 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 not detrimental to the public welfare, and

WHEREAS, on November 25, 2003, the Council of the City of Modesto reviewed the Initial Study (EA/C&ED 2003-85) for the proposed right-of-way abandonment and adopted Resolution No. 2003-625, which determined that the potential environmental effects of the Proposed Abandonment are adequately addressed within the context of the previously-adopted Mitigated Negative Declaration for the North Beyer Park Specific Plan.

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

1. That the portion of Beyer Park Drive to be abandoned is unnecessary for present or future pedestrian or vehicular use.
2. That Environmental Assessment No. EA C&ED 2003-85 determined that the potential environmental effects of the subdivision are adequately addressed within the context of the previously-adopted Mitigated Negative Declaration for the North Beyer Park Specific Plan.
3. That the vacation and abandonment of the portion of Beyer Park Drive right-of-way between Inspiration Drive and the future path of the Claratina Expressway, 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 the portion of the Beyer Park Drive right-of-way, between Inspiration Drive and the future path of Claratina Avenue, subject to the following conditions:

1. The applicants shall secure and construct the following improvements to the satisfaction of the Engineering and Transportation Director:
 - a. Construction of an eight-foot masonry wall across the opening in the existing wall along the south side of the Claratina Avenue right-of-way at Beyer Park Drive.
 - b. Demolition and removal of the pavement and concrete within the boundaries of the abandoned right-of-way.
 - c. Construction of curb, gutter and sidewalk along the north side of Inspiration Drive / Court.

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 conditional approval without the required conditions having been fulfilled, the conditional right-of-way abandonment shall expire and the Beyer Park Drive shall remain as public right-of-way.

BE IT FURTHER RESOLVED that the Council hereby approves the reservation of public utility easements within the portion of Beyer Park Drive proposed to be abandoned, as follows: a) a 15-foot-wide public utility easement as described in **Exhibit "B"** attached hereto, and by this reference made a part hereof as though set forth in full herein; and b) the extension of the existing 10-foot-wide public utility easement along the

north side of Inspiration Drive, across the abandoned right-of-way area as described in **Exhibit "C"** attached hereto, and by this reference made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED that the City Clerk shall hold this resolution of abandonment until conditions 1.a. through 1.c. above have been fully satisfied to the satisfaction of the City's Community and Economic Director and not less than five (5) 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

PARCEL ONE:

THE WEST 1/2 BEYER PARK DRIVE LYING ADJACENT TO AND WEST OF
LOT 1 IN BLOCK 15019 OF ROSE LANE NO. 5 PER MAP FILED FEBRUARY 11, 2000 IN
BOOK 38 OF SUBDIVISIONS AT PAGE 97, STANISLAUS COUNTY.

SAID LOT 1 IS APN: 082 15 42

COMMONLY KNOWN AS 1449 INSPIRATION DRIVE, MODESTO CA 95357

PARCEL TWO:

THE EAST 1/2 OF BEYER PARK DRIVE LYING ADJACENT TO AND EAST OF
LOT 40 IN BLOCK 15004 ROSE LANE NO. 5 PER MAP FILED FEBRUARY 11, 2000 IN
BOOK 38 OF SUBDIVISIONS AT PAGE 97, STANISLAUS COUNTY.

SAID LOT 40 IS APN: 082 15 40

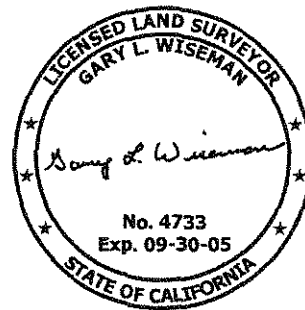
COMMONLY KNOWN AS 1501 INSPIRATION DRIVE, MODESTO CA 95357

Exhibit "B"

LEGAL DESCRIPTION
15' SANITARY SEWER EASEMENT

All that certain real property in the southwest quarter of Section 3, 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:

Commencing at the intersection of the centerline of 50.00 feet wide Inspiration Drive with the centerline of 60.00 feet wide Beyer Park Drive as shown on the map of Rose Lane No. 5, filed March 1, 2000 in Volume 38 of Maps, Page 97, Stanislaus County Records; thence North 0° 59' 13" West on the centerline of Beyer Park Drive, 25.00 feet to the POINT OF BEGINNING of this description; thence South 89° 00' 47" West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 13.50 feet; thence North 0° 59' 13" West, parallel with and 13.50 feet west of the centerline of Beyer Park Drive, 117.00 feet; thence North 89° 33' 12" East, parallel with and 67.50 feet south of the centerline of Claratina Avenue, 15.00 feet; thence South 0° 59' 13" East, parallel with and 1.50 feet east of the centerline of Beyer Park Drive, 116.86 feet; thence South 89° 00' 47" West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 1.50 feet to the point of beginning,



Date Signed: November 17, 2003

38-111-97

PARCEL 2
47-PM-D

ROSE LANE NO. 5

BEING A SUBDIVISION OF A PORTION
OF PARCEL 4, AS SHOWN IN BOOK 47
OF PARCEL MAPS AT PAGE 9, & LYING
WITHIN THE SOUTHWEST QUARTER OF
SECTION 3, TOWNSHIP 3 SOUTH,
RANGE 9 EAST, MOUNT DIABLO BASE &
MERIDIAN, CITY OF MODESTO, COUNTY
OF STANISLAUS, STATE OF CALIFORNIA

JANUARY, 2000

MID-VALLEY ENGINEERING
900 " H " STREET - SUITE " G "
MODESTO, CALIFORNIA 95354
(209) 526-4214

SANCTUARY COURT

EXISTING
STORM
DRAIN
BASIN

LOT "A"
STORM
DRAIN
BASIN
EXPANSION
41,376 S.F.

ROSE LANE NO. 1
37 - M - 71

MILESTONE
CIRCLE

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	BEARING
47	037154°	3400.00	189.79	84.92	189.76	S012475°W
48	0123201°	3400.00	82.10	41.05	82.10	S0334145°W
49	0053436°	3430.00	34.53	17.26	34.53	S0020512°W
50	0052710°	3430.00	57.03	28.52	57.03	S0025130°W
51	0052712°	3430.00	57.07	28.53	57.07	S014840°W
52	005444°	3430.00	54.61	27.31	54.62	S024439°W
53	017112°	3430.00	71.05	35.52	71.05	S034732°W
54	0101713°	3370.00	60.02	30.01	60.01	S0071825°W
55	013243°	3370.00	90.89	45.45	90.89	S013524°W
56	0070536°	1800.00	5.73	2.86	5.73	N041745°E
57	0274402°	1800.00	70.18	35.10	70.18	N0310516°E
58	0273446°	1800.00	70.04	35.02	70.04	N025122°E
59	0154336°	1800.00	60.00	30.00	60.00	N017249°W
60	0273440°	1800.00	70.06	35.03	70.06	N0317701°W
61	0102876°	1800.00	35.74	17.87	35.74	N043804°W
62	0052527°	1830.00	190.54	95.26	190.46	N012475°E
63	0352728°	1830.00	126.41	63.23	126.39	N033327°W
64	0271336°	1880.00	71.20	35.60	71.20	N031725°E
65	0232206°	1880.00	82.30	41.15	82.29	N025534°E
66	0238231°	1880.00	84.61	42.31	84.61	N0412522°W
67	0070238°	1880.00	4.67	2.33	4.67	N052753°W
68	022430°	1200.00	50.44	25.22	50.43	S041937°E
69	020828°	1200.00	44.85	22.43	44.84	S020707°E
70	013354°	1280.00	34.42	17.21	34.42	S043574°E
71	024347°	1280.00	60.03	30.02	60.02	S023624°E
72	0073517°	1280.00	5.60	2.80	5.60	S010652°E
73	403708°	50.00	35.73	18.67	34.98	S6810432°W
74	804547°	50.00	53.02	26.51	50.58	N6110132°W
75	513358°	50.00	45.00	24.15	43.50	N043144°W
76	513358°	50.00	45.00	24.15	43.50	N464214°E
77	575979°	50.00	50.59	27.70	48.46	S783137°E
78	172476°	40.00	12.15	6.12	12.10	N2610021°E
79	813533°	40.00	43.00	23.84	40.86	N132831°W
80	623740°	40.00	43.72	24.53	41.58	N253608°W
81	194137°	40.00	13.75	6.94	13.68	S671414°W
82	307175°	50.00	26.34	13.49	26.04	N255125°W
83	117320°	50.00	9.79	4.91	9.78	N653807°W
84	574431°	50.00	50.39	27.57	48.29	S782437°E
85	543620°	50.00	47.65	23.81	45.67	N452431°E
86	425247°	50.00	37.42	18.63	36.55	N032003°W
87	524702°	50.00	46.01	24.78	44.40	N510273°W
88	545208°	50.00	47.88	23.96	46.07	S250421°W
89	127472°	50.00	10.68	5.36	10.68	N534528°E
90	297023°	50.00	25.46	13.01	25.18	N742747°E
91	010826°	40.00	0.80	0.40	0.80	S893500°W
92	343107°	40.00	24.10	12.43	23.74	N723574°W
93	754034°	40.00	52.83	31.07	49.07	N517030°E
94	263832°	40.00	20.00	10.21	18.79	N005873°W
95	754034°	40.00	52.83	31.07	49.07	N530436°W
96	223935°	40.00	16.05	8.14	15.94	S273038°W
97	123958°	40.00	8.84	4.44	8.82	S594113°W

SCALE 1"=50'

#15848
3-1-00

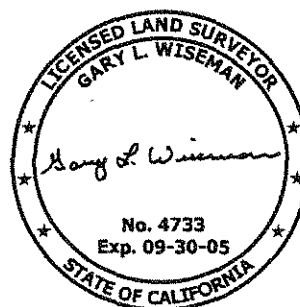
38-M-97

Exhibit "C"

LEGAL DESCRIPTION
10' PUBLIC UTILITY EASEMENT

All that certain real property in the southwest quarter of Section 3, 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:

Commencing at the intersection of the centerline of 50.00 feet wide Inspiration Drive with the centerline of 60.00 feet wide Beyer Park Drive as shown on the map of Rose Lane No. 5, filed March 1, 2000 in Volume 38 of Maps, Page 97, Stanislaus County Records; thence North $0^{\circ} 59' 13''$ West on the centerline of Beyer Park Drive, 25.00 feet to the POINT OF BEGINNING of this description; thence South $89^{\circ} 00' 47''$ West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 45.00 feet to the point of cusp with a tangent curve concave northwest, having a radius of 15.00 feet and a central angle of $70^{\circ} 31' 44''$; thence northeasterly on the arc of said curve 18.46 feet; thence North $89^{\circ} 00' 47''$ East, parallel with and 35.00 feet north of the centerline of Inspiration Drive, 61.72 feet to the beginning of a non-tangent curve concave northeasterly having a radius of 15.00 feet and a central angle of $70^{\circ} 31' 44''$ and from which point the radius point of said curve bears North $69^{\circ} 32' 31''$ East; thence southeasterly on the arc of said curve 18.46 feet to the point of cusp; thence South $89^{\circ} 00' 47''$ West, parallel with and 25.00 feet north of the centerline of Inspiration Drive, 45.00 feet to the point of beginning.



Date Signed: November 17, 2003

38-111-97

ROSE LANE NO. 5

BEING A SUBDIVISION OF A PORTION OF PARCEL 4, AS SHOWN IN BOOK 47 OF PARCEL MAPS AT PAGE 9, & LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE & MERIDIAN, CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

JANUARY, 2000

MID-VALLEY ENGINEERING
900 "N" STREET - SUITE "G"
MODESTO, CALIFORNIA 95354
(209) 526-4214

SANCTUARY COURT

LOT	AREA	PERCENT	LENGTH	WIDTH	AREA	PERCENT
17	8311.54	100.00	100.00	83.12	100.00	100.00
18	8171.70	100.00	82.10	99.65	100.00	100.00
19	8021.86	100.00	81.10	97.68	100.00	100.00
20	7872.02	100.00	80.10	95.71	100.00	100.00
21	7722.18	100.00	79.10	93.74	100.00	100.00
22	7572.34	100.00	78.10	91.77	100.00	100.00
23	7422.50	100.00	77.10	89.80	100.00	100.00
24	7272.66	100.00	76.10	87.83	100.00	100.00
25	7122.82	100.00	75.10	85.86	100.00	100.00
26	6972.98	100.00	74.10	83.89	100.00	100.00
27	6823.14	100.00	73.10	81.92	100.00	100.00
28	6673.30	100.00	72.10	79.95	100.00	100.00
29	6523.46	100.00	71.10	77.98	100.00	100.00
30	6373.62	100.00	70.10	76.01	100.00	100.00
31	6223.78	100.00	69.10	74.04	100.00	100.00
32	6073.94	100.00	68.10	72.07	100.00	100.00
33	5924.10	100.00	67.10	70.10	100.00	100.00
34	5774.26	100.00	66.10	68.13	100.00	100.00
35	5624.42	100.00	65.10	66.16	100.00	100.00
36	5474.58	100.00	64.10	64.19	100.00	100.00
37	5324.74	100.00	63.10	62.22	100.00	100.00
38	5174.90	100.00	62.10	60.25	100.00	100.00
39	5025.06	100.00	61.10	58.28	100.00	100.00
40	4875.22	100.00	60.10	56.31	100.00	100.00
41	4725.38	100.00	59.10	54.34	100.00	100.00
42	4575.54	100.00	58.10	52.37	100.00	100.00
43	4425.70	100.00	57.10	50.40	100.00	100.00
44	4275.86	100.00	56.10	48.43	100.00	100.00
45	4126.02	100.00	55.10	46.46	100.00	100.00
46	3976.18	100.00	54.10	44.49	100.00	100.00
47	3826.34	100.00	53.10	42.52	100.00	100.00
48	3676.50	100.00	52.10	40.55	100.00	100.00
49	3526.66	100.00	51.10	38.58	100.00	100.00
50	3376.82	100.00	50.10	36.61	100.00	100.00
51	3226.98	100.00	49.10	34.64	100.00	100.00
52	3077.14	100.00	48.10	32.67	100.00	100.00
53	2927.30	100.00	47.10	30.70	100.00	100.00
54	2777.46	100.00	46.10	28.73	100.00	100.00
55	2627.62	100.00	45.10	26.76	100.00	100.00
56	2477.78	100.00	44.10	24.79	100.00	100.00
57	2327.94	100.00	43.10	22.82	100.00	100.00
58	2178.10	100.00	42.10	20.85	100.00	100.00
59	2028.26	100.00	41.10	18.88	100.00	100.00
60	1878.42	100.00	40.10	16.91	100.00	100.00
61	1728.58	100.00	39.10	14.94	100.00	100.00
62	1578.74	100.00	38.10	12.97	100.00	100.00
63	1428.90	100.00	37.10	11.00	100.00	100.00
64	1279.06	100.00	36.10	9.03	100.00	100.00
65	1129.22	100.00	35.10	7.06	100.00	100.00
66	979.38	100.00	34.10	5.09	100.00	100.00
67	829.54	100.00	33.10	3.12	100.00	100.00
68	679.70	100.00	32.10	1.15	100.00	100.00
69	529.86	100.00	31.10	-0.82	100.00	100.00
70	379.02	100.00	30.10	-2.79	100.00	100.00
71	229.18	100.00	29.10	-4.76	100.00	100.00
72	79.34	100.00	28.10	-6.73	100.00	100.00
73	-70.50	100.00	27.10	-8.70	100.00	100.00
74	-120.66	100.00	26.10	-10.67	100.00	100.00
75	-170.82	100.00	25.10	-12.64	100.00	100.00
76	-220.98	100.00	24.10	-14.61	100.00	100.00
77	-271.14	100.00	23.10	-16.58	100.00	100.00
78	-321.30	100.00	22.10	-18.55	100.00	100.00
79	-371.46	100.00	21.10	-20.52	100.00	100.00
80	-421.62	100.00	20.10	-22.49	100.00	100.00
81	-471.78	100.00	19.10	-24.46	100.00	100.00
82	-521.94	100.00	18.10	-26.43	100.00	100.00
83	-572.10	100.00	17.10	-28.40	100.00	100.00
84	-622.26	100.00	16.10	-30.37	100.00	100.00
85	-672.42	100.00	15.10	-32.34	100.00	100.00
86	-722.58	100.00	14.10	-34.31	100.00	100.00
87	-772.74	100.00	13.10	-36.28	100.00	100.00
88	-822.90	100.00	12.10	-38.25	100.00	100.00
89	-873.06	100.00	11.10	-40.22	100.00	100.00
90	-923.22	100.00	10.10	-42.19	100.00	100.00
91	-973.38	100.00	9.10	-44.16	100.00	100.00
92	-1023.54	100.00	8.10	-46.13	100.00	100.00
93	-1073.70	100.00	7.10	-48.10	100.00	100.00
94	-1123.86	100.00	6.10	-50.07	100.00	100.00
95	-1174.02	100.00	5.10	-52.04	100.00	100.00
96	-1224.18	100.00	4.10	-54.01	100.00	100.00
97	-1274.34	100.00	3.10	-55.98	100.00	100.00

ROSE LANE NO. 1
37 - M 71

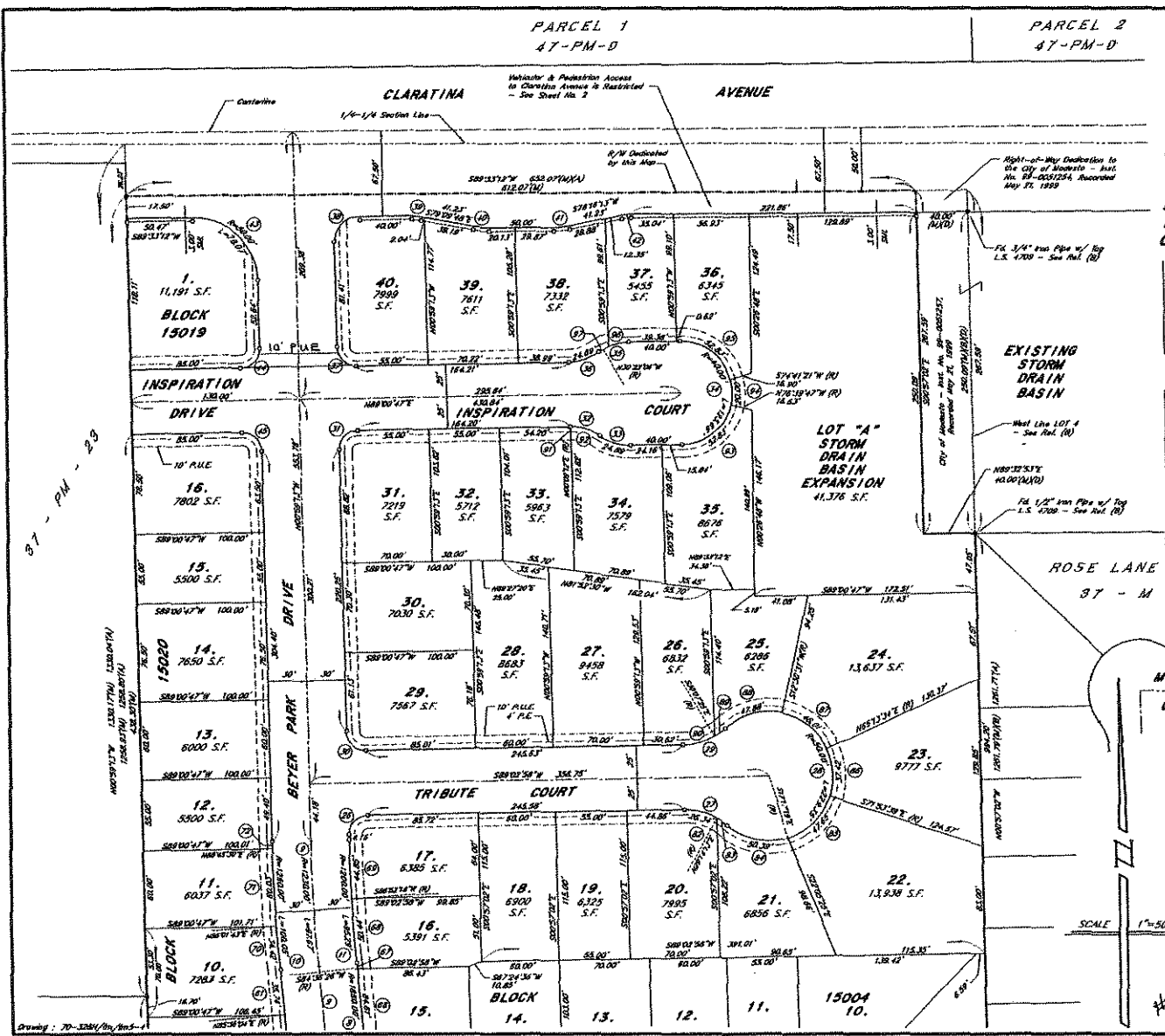
MILESTONE
CIRCLE

SCALE 1"=50'

#15849
31-00

Sheet 4 of 4 Sheets

Job No. 70-1264



38-M-97

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-627**

A RESOLUTION FINDING THAT THE POTENTIAL ENVIRONMENTAL IMPACTS OF THE FOLLOWING PROJECT HAVE BEEN ADEQUATELY ADDRESSED BY THE NORTH BEYER PARK SPECIFIC PLAN MITIGATED NEGATIVE DECLARATION (SCH NO. 96102053): CONDITIONAL VACATION AND ABANDONMENT OF THE PORTION OF BEYER PARK DRIVE RIGHT-OF-WAY BETWEEN CLARATINA AVENUE AND INSPIRATION DRIVE AND RESERVING UTILITY EASEMENTS WITHIN THE SUBJECT RIGHT-OF-WAY (FROWEIN; CHAMBERS)

WHEREAS, on November 26, 1996, the City Council of the City of Modesto certified the North Beyer Park Specific Plan Mitigated Negative Declaration (SCH No. 96102053) for the North Beyer Park Specific Plan, and

WHEREAS, Naja & Michael Frowein and Maurice Chambers have proposed that the Beyer Park Drive right-of-way between Claratina Avenue Expressway and Inspiration Drive, be vacated and abandoned, and

WHEREAS, Section 15162 of the CEQA Guidelines states that when a negative declaration has been adopted for a project, no further environmental review is required for the project unless the agency finds that there have been substantial changes in the project which will require major changes in the negative declaration, or that there have been substantial changes in the circumstances under which the project is being undertaken which will require major revisions in the negative declaration, or that new information of substantial importance, which was not known and could not have been known at the time of adoption of the negative declaration, creates new impacts or mitigation measures, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2003-85 reviewed the proposed

project to determine whether the potential environmental impacts of the project were adequately addressed by the North Beyer Park Specific Plan Negative Declaration, and made the determination that there were not substantial changes that would require major revisions in the North Beyer Park Specific Plan Mitigated Negative Declaration, there were no substantial changes in the circumstances surrounding the project that would require major changes in the North Beyer Park Specific Plan Mitigated Negative Declaration, and there was no new information that would result in new impacts or mitigation measures not previously included in the North Beyer Park Specific Plan Mitigated Negative Declaration, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 25, 2003, 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 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. No substantial changes are proposed in the project that will require major revisions of the North Beyer Park Specific Plan Mitigated Negative Declaration.
2. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the North Beyer Park Specific Plan Mitigated Negative Declaration.
3. No new information, which was not known and could not have been known at the time the North Beyer Park Specific Plan

Mitigated Negative Declaration was certified as complete, has become available.

4. This Initial Study provides substantial evidence to support findings 1-3, above.

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 25th day of November, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

EXHIBIT A
Initial Study
EA/C&ED 2003-85

City of Modesto
Initial Study

**Abandonment of Beyer Park Drive Right-of-Way
Between Claratina Avenue and Inspiration Drive**

EA/CDD 2003-85

October 1, 2003

I. PURPOSE

On November 26, 1996, the Modesto City Council certified the Mitigated Negative Declaration for the North Beyer Park Specific Plan (SCH# 96102053). This document analyzed the impacts of buildout of the North Beyer Park Specific Plan. Section 21166 of the Public Resources Code allows the North Beyer Park Specific Plan Mitigated Negative Declaration to be used for subsequent projects within the Specific Plan area, provided that the following findings can be made:

- A. No substantial changes are proposed in the project that will require major revisions of the environmental impact report.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, has become available.

II. PROJECT DESCRIPTION

- A. Project title:
Public Hearing – Application of Frowein, Walsh & Boston, to abandon a portion of the Beyer Park Drive right-of-way, located between the future Claratina avenue expressway and Inspiration Drive.
- B. Lead agency name and address:
City of Modesto, PO Box 642, Modesto, CA 95353
- C. Contact person, address and phone number:
Brad Wall
City of Modesto Community & Economic Development Department
1010 10th Street, Suite 3100
Modesto, CA 95353
(209) 577-5282
- D. Project Location:
Within the Beyer Park Drive right-of-way, between the future Claratina Avenue expressway and Inspiration Drive

- E. Project Sponsors:
- | | | |
|------------------------|--------------------------|----------------------|
| Michael & Naja Frowein | Robert & Manuelita Walsh | Jim & Joanne Boston |
| 1449 Inspiration Drive | 1448 Inspiration Drive | 1500 Inspiration Ct. |
| Modesto, CA 95357 | Modesto, CA 95357 | Modesto, CA 95357 |
| 491-0550 | 491-0838 | 572-2582 |
- F. General Plan Designation:
Residential (R)
- G. Current Zoning:
Specific Plan Overlay (SP-O)
- H. Description of Proposed Project:
This is an application to abandon the portion of Beyer Park Drive between the future Claratina Avenue expressway and Inspiration Drive. The surrounding area is developed with single-family residential land uses.
- I. Surrounding land uses: (See "H." above.)
- J. Other public agencies whose approval is required: None.

III. ANALYSIS OF CONFORMANCE WITH CEQA SECTION 21166 FINDINGS

- A. Are substantial changes proposed in the project which will require major revisions of the environmental impact report?

Following is an analysis of whether there are substantial changes proposed in the project which would require major revisions of the North Beyer Park Specific Plan Mitigated Negative Declaration:

1. Land Use and Consistency with Plans and Policies

Impacts to land use / consistency with plans and policies are discussed on pages 6 through 8 of the North Beyer Park Specific Plan Negative Declaration. The proposed abandonment of the subject right-of-way is consistent with this analysis. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

2. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages 9 and 10 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to population, employment nor housing. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

3. Geologic Problems

Impacts to geology and soils are analyzed on pages 11 and 12 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to geology. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

4. Water Quality

Water quantity and quality, and its availability and impacts to supplies are analyzed on pages 13 through 16 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to quantity, quality, supply, nor demand. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

5. Air Quality

Impacts related to air quality are analyzed on pages 17 and 18 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to air quality. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

6. Traffic and Circulation

Traffic and Circulation impacts are analyzed on pages 19 through 23 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would result in a modified traffic circulation pattern. However, the Beyer Park Drive intersection with Claratina Avenue is not shown in the Specific Plan, nor is it considered within the environmental document. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

7. Biological Resources

Impacts to biological resources are analyzed on pages 24 and 25 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to biological resources. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

8. Energy and Mineral Resources

Impacts to energy and mineral resources are analyzed on page 26 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to energy and mineral resources. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

9. Hazards

Impacts relative to hazards are analyzed on pages 27 and 28 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to hazards. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

10. Noise

Noise-related impacts are analyzed on page 29 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no noise-related impacts. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

11. Public Services

Impacts to public services are analyzed on pages 30 through 32 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts associated with the provision of public services. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

12. Utilities and Service Systems

Impacts to utilities and service systems are analyzed on pages 33 and 34 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to utilities and service systems. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

13. Aesthetics

Aesthetic impacts are analyzed on page 35 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to aesthetics. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

14. Cultural Resources

Impacts to cultural resources are analyzed on pages 36 and 37 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to cultural resources. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

15. Recreation

Recreation-related impacts to are analyzed on page 38 of the North Beyer Park Specific Plan Mitigated Negative Declaration. Abandonment of the subject right-of-way would have no impacts relative to recreation. Therefore, there would be no major revisions to this section of the mitigated negative declaration required as a result of the proposed project.

- B. Have substantial changes occurred with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report?

The proposed Beyer Park Drive right-of-way abandonment does not constitute a substantial change to the buildout of the Specific Plan area. Therefore, there have been no substantial changes with respect to the circumstances under which the abandonment is being undertaken which will require major revisions to the North Beyer Park Specific Plan Mitigated Negative Declaration.

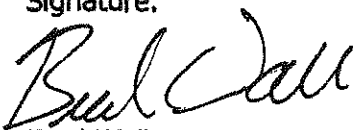
- C. Has new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, become available?

The North Beyer Park Specific Plan Mitigated Negative Declaration was certified by the Modesto City Council on November 26, 1996. Since that date there has been no new information, which was not known and could not have been known at the time the North Beyer Park Specific Plan Mitigated Negative Declaration was certified as complete, has become available that would require major revisions to the analysis of the document.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

- A. No substantial changes are proposed in the project that will require major revisions of the North Beyer Park Specific Plan Mitigated Negative Declaration.
- B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the North Beyer Park Specific Plan Mitigated Negative Declaration.
- C. No new information, which was not known and could not have been known at the time the North Beyer Park Specific Plan Mitigated Negative Declaration was certified as complete, has become available.
- D. This Initial Study provides substantial evidence to support findings A, B and C, above.

Signature:



Brad Wall,
Associate Planner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-628**

A RESOLUTION AWARDING THE BID AND CONTRACT FOR LIQUID CHLORINE AND SODIUM HYPOCHLORITE TO SIERRA CHEMICAL COMPANY OF SPARKS, NV. FOR AN INITIAL ONE-YEAR PERIOD, WITH TWO (2) ONE-YEAR CONTRACT EXTENSIONS, FOR AN ESTIMATED ANNUAL COST OF \$146,859.69.

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of liquid chlorine, and

WHEREAS, the Operations and Maintenance Department-Water Division has requested the purchase of sodium hypochlorite, and

WHEREAS, Resolution 2003-441 authorized the Purchasing Supervisor to solicit Request for Bids (RFB) for liquid chlorine and sodium hypochlorite, and

WHEREAS, liquid chlorine (CL2) is used during river discharge season from October 1st through May 31, and

WHEREAS, this product is utilized at the Jennings Road facility to chlorinate and disinfect our final effluent to the San Joaquin River, as required in the City's permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River, and

WHEREAS, the City of Modesto Water Division uses sodium hypochlorite to disinfect the domestic water supply as specified by water purveyors permit as issued by the California Department of Health Services, and

WHEREAS, the disaffection process, using a 12.5% Sodium Hypochlorite Solution, has provided drinking water disaffection while maintaining a chlorine residual

in the distribution system to protect our customers from possible water borne disease, since 1995, and

WHEREAS, this allows for well water and the water distribution systems to be chlorinated in as safe a form as possible for both City personnel and City customers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for liquid chlorine and sodium hypochlorite to Sierra Chemical Company of Sparks, NV., for an initial one-year period, with two (2) one-year contract extensions, for a total annual cost of approximately \$146,859.69.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is authorized to issue a contract not to exceed \$146,859.69 to Sierra Chemical Company for an initial one-year period, with two (2) additional, one-year contract extensions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:


Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-629**

A RESOLUTION APPROVING THE APPLICATION FOR \$2,500,000 IN MURRAY-HAYDEN PROGRAM FUNDING UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, FOR THE DEVELOPMENT OF FAIRWAY NEIGHBORHOOD PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION AND CONTRACT DOCUMENTS.

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the Murray-Hayden Urban Parks and Youth Service Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, grant funding in the amount of \$2,500,000 is available for capital projects including parks and park facilities, and

WHEREAS, development of the Fairway Neighborhood Park is consistent with the Murray-Hayden Program grant project criteria, and

WHEREAS, said procedures established by the California Department of Parks and Recreation 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, 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 an Application for \$2,500,000 in local assistance funds from the Murray-Hayden Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; 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. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and
5. Appoints the City Manager 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 2nd day of December, 2003, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEANZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-630**

A RESOLUTION APPROVING A LEASE AGREEMENT WITH THE CENTRAL VALLEY CENTER FOR THE VISION AND HEARING IMPAIRED (CVCVHI) FOR THE USE OF CITY-OWNED HOUSE AT 618 14TH STREET, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, in 1998, the City of Modesto accepted real property (two houses) located at 618 and 622 14th Street from the estate of Daniel Soranno, with the following terms and conditions: 1) the said properties shall be used solely for civic purposes, 2) if the City should declare the said property surplus, for sale or not for civic purposes, the property shall revert to the Daniel Soranno Trust, and 3) the said property shall be dedicated to the Trustors parents, Daniel and Mary Serrano, and

WHEREAS, for several years, the properties on 14th Street were used for various staff offices and storage of supplies, and

WHEREAS, in 2001, the Modesto Garden Club started to lease the property at 622 14th Street, and

WHEREAS, in March 2003, a representative from the Central Valley Center for the Vision and Hearing Impaired (CVCVHI), a nonprofit organization, approached the City of Modesto, Parks, Recreation and Neighborhoods Department about utilizing the house located at 618 14th Street as a headquarters and re-training (for recently impaired individuals) site, and

WHEREAS, the Central Valley Center for the Vision and Hearing Impaired (CVCVHI) is a newly formed non-profit 501 (c)(3) organization, and

WHEREAS, CVCVHI is working to serve the 20% of the Valley's population, which has severe vision and hearing impairments, and the mission of CVCVHI is to provide a place of training, education and personal growth to this disabled population, and

WHEREAS, currently, the house located at 618 14th Street is holding the overflow supplies and equipment from the Garden Club but no long-term lessee occupies the building, and

WHEREAS, the CVCVHI is a start up 503(c)(3) that can meet the "civic" requirement of the donated property and can also offer increased services to Modesto residents with severe vision and hearing impairments, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a lease with the Central Valley Center for the Vision and Hearing Impaired for the use of a City-owned house at 618 14th Street.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

LEASE AGREEMENT

This Lease Agreement, made and entered into in the City of Modesto, County of Stanislaus, State of California, as of this _____ day of _____, 2003, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called LESSOR, and THE CENTRAL VALLEY CENTER FOR THE VISION AND HEARING IMPAIRED, a California corporation, hereinafter called LESSEE.

THE PARTIES HERETO AGREE AS FOLLOWS:

That LESSOR for and in consideration of the covenants, conditions, agreements and stipulations hereinafter expressed, does hereby demise and lease unto LESSEE, and LESSEE hereby hires from LESSOR all that real property in the State of California, County of Stanislaus, City of Modesto, described as 618 14th Street.

1. TERM. LESSEE shall be entitled to have and to hold the leased premises, together with the appurtenances, rights, privileges and easement thereunto belonging to or appertaining, for a three (3) year term commencing on October 1, 2003, and ending on October 1, 2006, or until terminated by LESSEE providing LESSOR with thirty (30) days prior written notice. If LESSEE with LESSOR'S consent, remains in possession of the leased premises after expiration of the lease term, possession of the leased premises shall be deemed to be a month-to-month tenancy terminable on thirty (30) days written notice given by either party. LESSOR'S City Manager is authorized to give said notice on behalf of LESSOR.

All provisions of this Lease Agreement except those pertaining to term, shall apply to the month-to-month tenancy.

2. RENTAL. LESSEE agrees that as consideration for the use of the demised premises for community services in the Modesto area and that the premises were donated to the city of Modesto for community benefit, and as consideration that the

LESSEE agrees to maintain the structure at 618 14th Street, and provide civic service on Attachment A, that the rent shall be in the sum of one dollar per year.

3. USE. Said leased premises shall be used by LESSEE to provide for community services and shall not be used for any other purpose without the express prior written consent of LESSOR'S Manager.

4. AS IS LEASE. LESSEE acknowledges that LESSEE is leasing the above described property solely in reliance on LESSEE'S own investigation and that no representations or warranties of any kind whatsoever, express or implied, have been made by the LESSOR or LESSOR'S representatives. LESSEE further acknowledges that as of execution of this Agreement, LESSEE will be aware of all zoning regulations, other governmental requirements, site and physical conditions, and other matters affecting the use and condition of the property and agrees to lease the property in "AS IS" condition upon execution of this Agreement.

5. MAINTENANCE AND REPAIRS. LESSEE agrees that as part of the consideration for lease of the demised premises that LESSEE will make, at LESSEE'S sole cost and expense, any ordinary repairs to the premises necessary to keep said premises in a tenantable condition. LESSEE also agrees to bring and maintain the demised premises in a safe, clean and sanitary manner, including the building structure.

LESSOR shall be not be responsible for any major repairs to the demised premises to bring the structure up to a usable condition, with the exception of the sewer and water lines up to the house. Upon bringing these items up to the desired condition by the LESEE, LESSOR shall have no obligation for maintenance of these items, other than the water and sewer lines. LESSOR'S City Manager or his designee shall make the determination of whether any particular item of repair, which may become necessary is the responsibility of LESSEE or LESSOR, and LESSEE agrees to abide by such decision.

Subject to the prior written approval of LESSOR'S City Manager, LESSEE shall have the right, during the term of this Lease Agreement, to make alterations

necessary for use of the leased premises. Building permits shall be taken out by LESSEE for such alterations if required by the provisions of the building regulations of the City of Modesto. All such alterations shall become the property of LESSOR upon the expiration of this Lease Agreement and must be approved by the LESSOR prior to installation.

LESSEE shall, upon the expiration of this Lease Agreement, leave the leased premises in good order, condition and repair, reasonable and ordinary wear and tear and damages by the elements or circumstances over which LESSEE has no control excepted.

6. REMOVAL OF PERSONAL PROPERTY. Conditioned upon LESSEE having paid all rentals provided for herein, LESSEE may remove all equipment, fixtures, furnishings, signs, and other personal property located or installed on the leased premises by LESSEE, and the same shall be removed by LESSEE at the expiration or termination of this Lease, provided that the same may be removed without damage to the building; and if damages are caused by such removal, LESSEE agrees to repair such damage at its own cost forthwith.

7. UTILITIES. LESSEE agrees to pay all utility bills and all bills for water, sewer, storm and garbage and to pay same promptly when due, holding LESSOR harmless therefrom.

8. ASSIGNMENT BY LESSEE. LESSEE shall not assign this Lease Agreement nor any right hereunder, nor sublet the demised premises, nor any part thereof, or suffer any other person or entity to occupy or use the said premises or any portion thereof, whether through direct assignment, merger, sale of stock or business assets without the prior written consent of LESSOR'S City Manager first had and obtained, and a consent to one assignment, subletting, occupation or use by any other person or entity shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person or entity. Any such assignment, subletting and occupation or use by any other person or entity without such consent shall be void, and

shall at the option of the LESSOR'S City Manager, terminate this Lease Agreement. This Lease Agreement shall not, nor shall any interest therein, be assignable, as to the interest of LESSEE by operation of law, without the prior written consent of LESSOR.

9. FIRE INSURANCE. LESSOR shall keep the leased premises, excluding personal property of LESSEE, insured against losses by fire and other perils to the extent covered within LESSOR'S insurance policies, except LESSEE agrees to reimburse LESSOR for any such losses caused by, or arising out of, LESSEE'S use, occupancy or operation of the leased premises and not covered under LESSOR'S insurance policies, including deductible amounts, presently Five Thousand and No/100th Dollars (\$5,000.00); LESSEE further agrees to reimburse LESSOR and/or LESSOR'S insurance companies for any such losses caused by, or arising out of, LESSEE'S use, occupancy or operation of the leased premises for which LESSEE may be held legally obligated to pay. LESSEE further agrees that if the leased premises are damaged or destroyed in the amount of more than twenty-five percent (25%), LESSOR at its option shall not be required to reconstruct or replace the leased premises.

10. INDEMNIFICATION. LESSEE shall hold LESSOR, its agents, officers, employees, and volunteers, harmless from and save, defend and indemnify them against any and all claims, losses, liabilities and damages from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney's fees, and all costs and expenses, arising directly or indirectly out of any act or omission of LESSEE whether or not the act or omission arises from the sole negligence or other liability of LESSOR, its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

11. LIABILITY INSURANCE. LESSEE 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 LESSOR as may be required by the City Clerk of LESSOR. 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 LESSOR by registered mail, return receipt requested, for all of the following stated insurance policies.

a. General Liability instance 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 contractors and subcontractors; products and completed operations; and/or professional liability.

b. 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.

If at any time any of said policies shall be unsatisfactory to LESSOR, as to form or substance or if a company issuing such policy shall be unsatisfactory to LESSOR, LESSEE shall promptly obtain a new policy, submit the same to Risk Manager of LESSOR for approval and submit a certificate thereof as hereinabove provided. Upon failure of LESSEE to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of LESSOR, may be forthwith declared suspended, or terminated. Failure of LESSEE to obtain and/or maintain any required insurance shall not relieve LESSEE from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of LESSEE concerning indemnification. LESSOR, 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 LESSOR, its agents, officers, employees, and volunteers for losses arising from work performed by LESSEE for LESSOR. LESSEE'S

insurance policy(ies) shall include a provision that the coverage is primary as respects LESSOR; 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 of LESSOR.

12. RIGHT OF ENTRY UPON PREMISES. LESSOR and its agents and employees shall have the right to enter upon said premises at all reasonable times to inspect the same to determine if LESSEE is performing the covenants of this Lease Agreement on its part to be performed, and to post such reasonable notices as LESSOR may desire to protect its rights.

13. TAXES. LESSEE recognizes and understands that this Lease Agreement may create a possessory interest subject to property taxation and that LESSEE may be subject to the payment of property taxes on such interest. LESSEE further agrees to pay, without the right to deduct from rental fees provided herein, any and all property taxes, if any are assessed during the term of this Lease Agreement against LESSEE'S possessory interest in the demised leased premises.

14. COMPLIANCE WITH LAWS. LESSEE shall not do or suffer to be done on or about the leased premises anything that would or does violate or conflict with any applicable law, ordinance, rule or regulation which is now in force or effect or which may hereafter be enacted or adopted by federal, state, county or municipal authority.

15. TERMINATION BY LESSOR PRIOR TO EXPIRATION. LESSOR'S City Manager shall have the right to immediately terminate this Lease Agreement, in whole or in part, on the occurrence of any of the following events:

a. Failure on the part of LESSEE to pay rent when due, unless such failure is corrected within a fifteen (15) day period.

b. Filing by or the final adjudication of LESSEE of any petition in bankruptcy or the making of any transfer of general assignment for the benefit of creditors which has not been previously authorized by LESSOR.

c. The failure of LESSEE to perform substantially or keep or observe any of the terms, covenants and conditions which it is obligated to perform, keep or observe under this Lease Agreement after the expiration of a fifteen (15) day period of warning or ultimatum given by LESSOR'S City Manager to LESSEE to correct any such deficiency or default.

d. The abandonment of the leased premises or any portion thereof, or discontinuance of LESSEE'S business operations, or any portion thereof. Should this occur, LESSOR shall not be responsible for the custodial protection of merchandise, fixtures, or equipment abandoned, even though it is necessary for LESSOR to remove same from the leased premises for storage or disposal.

16. FAILURE TO VACATE. LESSEE agrees to vacate the leased premises at the expiration of the lease term or upon the termination of this Lease Agreement, whichever occurs first, and failing to vacate as herein provided, agrees that LESSOR or its authorized agents, may enter upon the leased premises and remove all personal property therefrom and in this event, LESSEE waives any and all claims for damages against LESSOR, its agents or employees. Nothing herein shall be deemed a waiver of any rights of LESSOR to demand and obtain possession of said premises in accordance with law in the event of a violation of LESSEE'S part of any of the terms or conditions hereof.

17. NONWAIVER. Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

18. COPARTNERSHIP DISCLAIMER. It is mutually understood and agreed that nothing in this Lease Agreement is intended or shall be construed as in any wise

creating or establishing the relationship of copartners between the parties hereto, or as constituting LESSEE as agents or representatives of LESSOR for any purpose or in any manner whatsoever.

19. ENTIRE AGREEMENT. This Agreement contains the sole and only agreement of the parties. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect.

20. 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 any 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.

21. GOVERNING LAW. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California.

22. VENUE. Venue for any action brought by either party to this Agreement against the other to enforce the terms and conditions thereof shall be maintained in Stanislaus County, California, in the proper court having jurisdiction.

23. INVALID TERMS. If any terms, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

24. AMENDMENT. This Agreement, including any exhibits hereto, shall not be amended, except in writing and signed by the parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

25. ATTORNEY'S FEES. In the event that either party hereto shall commence any legal action or proceeding against the other by reason of the alleged failure of the

other to perform any term, covenant, or condition of this Lease Agreement by them to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover a reasonable attorney's fee to be fixed by the court, and such recovery shall include court costs and attorney's fee on appeal if any. As used herein, "the party prevailing" means the party in whose favor final judgment is rendered and "legal action or proceeding" includes arbitration.

26. TIME OF ESSENCE, BINDING UPON HEIRS, ETC. Time is of the essence of each and all the terms and provisions of this Lease Agreement and the terms and provisions of this Lease Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

27. NUMBER AND GENDER. All words used herein in the singular number shall include the plural and the present tense, shall include the future and the masculine gender, and shall include the feminine and neuter.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Lease 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 _____, 2003, and LESSEE has caused this Lease Agreement to be executed.

"LESSOR"

"LESSEE"

CITY OF MODESTO, a municipal Corporation

THE CENTRAL VALLEY CENTER FOR THE VISION AND HEARING IMPAIRED, a California Corporation

By _____
JACK R. CRIST
City Manager

By _____
JIM SYVERTSEN
President

ATTEST:

By _____
JEAN ZAHR
City Clerk

By _____
JOHN DE LA MORA
Secretary

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH
City Attorney

APPROVED AS TO RISK MANAGEMENT FORM:

By _____
BEN BANKARD
Acting Risk Manager

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-631**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE DOCUMENTS FOR THE FOLLOWING LOANS INITIATED BY THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT: DOWN PAYMENT ASSISTANCE PROGRAM (DPAP) LOANS NOT TO EXCEED THE PROGRAM MAXIMUM, CURRENTLY \$60,000; EMERGENCY HOME REPAIR PROGRAM (EHRP)/DISABLED ACCESS ASSISTANCE PROGRAM (DAAP) LOANS NOT TO EXCEED THE PROGRAM MAXIMUM, CURRENTLY \$15,000 FOR EHRP, \$10,000 FOR DAAP, AND MAXIMUM OF \$25,000 FOR COMBINED EHRP/DAAP; AND HOUSING MAINTENANCE PROGRAM LOANS NOT TO EXCEED \$60,000

WHEREAS, in 1996, by Resolution No. 1996-88, the City Council authorized the City Manager to modify and execute loan documents for participants of the City's rehabilitation programs receiving financial assistance through the Housing and Neighborhoods Services Division, and

WHEREAS, these loans would typically consist of either an Emergency Home Repair/Disabled Access Loan or a Housing Maintenance Program Loan, and

WHEREAS, on November 27, 2001, by Resolution No. 2001-606, the City Council authorized new program criteria for the Down Payment Assistance Program (DPAP) and authorized the Housing Rehabilitation Loan Committee (HRLC) to approve the loans issued under this program and any other housing rehabilitation loans up to \$25,000, and

WHEREAS, all loans over \$25,000 currently require City Council approval, and

WHEREAS, on October 7, 2003, by Resolution No. 2003-529, the City Council authorized modification to the DPAP guidelines and increased the loan amount to a maximum of \$60,000, and

WHEREAS, in order to proceed in an effective manner, staff recommends that, following approval of the HRLC, the City Manager be authorized to approve and execute Down Payment Assistance Program (DPAP) loans up to the program maximum, currently \$60,000, and

WHEREAS, in order to proceed in an effective manner, staff recommends that, following approval of the HRLC, the City Manager be authorized to approve and execute Emergency Home Repair Program (EHRP)/Disabled Access Assistance Program (DAAP) loans up to the program maximum, currently \$15,000 for EHRP, \$10,000 for DAAP, and \$25,000 maximum for combined EHRP/DAAP, and

WHEREAS, in order to proceed in an effective manner, staff recommends that, following approval of the HRLC, the City Manager be authorized to approve and execute Housing Maintenance Program loans up to \$60,000, and

WHEREAS, any loans outside of those loans specified above would receive approval from the appropriate established committee and then proceed to City Council for authorization and approval, and

WHEREAS, at its November 6, 2003, meeting, the Housing Rehabilitation Loan Committee discussed and recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the City Manager to approve and execute documents for the following loans initiated by the Parks, Recreation and Neighborhoods Department: Down Payment Assistance Program (DPAP) loans not to exceed the program maximum, currently \$60,000; Emergency Home Repair Program (EHRP)/Disabled Access Assistance Program (DAAP) loans not to exceed the program

maximum, currently \$15,000 for EHRP, \$10,000 for DAAP, and maximum of \$25,000 for combined EHRP/DAAP; and Housing Maintenance Program loans not to exceed \$60,000

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2004-632**

RESOLUTION AUTHORIZING THE CITY MANAGER (1) TO EXECUTE A LETTER OF INTENT FOR A LOAN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STANISLAUS COUNCIL OF GOVERNMENTS FOR WIDENING OF STATE ROUTE 132; (2) TO EXECUTE A LOAN AGREEMENT WITH STANCOG AND TO REMIT FUNDS PER THE AGREEMENT AFTER STANCOG HAS COMPLETED ALL CONDITIONS TO THE AGREEMENT TO THE SATISFACTION OF THE CITY MANAGER, AND (3) TO AMEND THE FISCAL YEAR 2003-2004 OPERATIONS BUDGET TO INCLUDE ORGANIZATION 05210-430-4382 "SR132 STANCOG LOAN."

WHEREAS, under California Government Code Section 14529.7, StanCOG may enter into an agreement with the California Transportation Commission (CTC) to use local funds to implement a State Transportation Implementation Program (STIP) project at an earlier date than it has been programmed by the State and to receive a later reimbursement from STIP funds; and

WHEREAS, StanCOG proposes to widen State Route 132 (SR 132) to a uniform four lanes from Frazine Road and Codoni Road in the east to Riverside drive in the west including:

- A median divider designed and equipped for future landscaping;
- Intersection and pedestrian safety improvements;
- Sidewalk installation on the north side of road;
- Storm drainage improvements; and
- A continuous bicycle lane; and

WHEREAS, the completion of this project will significantly improve overall traffic flow in the State Route 132/Beard Industrial Tract Area, facilitate up to 15,000 daily truck trips, stimulate jobs and economic development, and ease congestion on adjacent roadways; and

WHEREAS, the Council has identified this project as an important transportation

project within the City's General Plan Sphere of Influence; and

WHEREAS, insufficient STIP funds are available to implement the project on schedule resulting in a potential delay of the project; and

WHEREAS, StanCOG has requested that the City of Modesto, the Economic Development Bank, the Beard Land Improvement Company, and StanCOG Regional Surface Transportation Program to loan funds to implement the project on schedule under the provisions of Government Code Section 14529.7 according to the following formula:

Stanislaus allocation of Federal Regional Funds (RSTP) (\$75,000 loan, and \$140,000 grant)	\$ 215,000
Stanislaus County Economic Development Bank Loan	\$ 420,000
City of Modesto Loan	\$ 400,000
<u>Loans from the Private Stakeholders in the area</u>	<u>\$ 520,000</u>
TOTAL	\$ 1,555,000

WHEREAS, StanCOG agrees to repay the \$400,000 loan on or before July 1, 2007, using State funds with only those limitations consistent with Public Utility Code Section 99402. No interest will be charged to StanCOG if the loan is repaid on or before July 1, 2007. In the unlikely circumstance that StanCOG does not repay the loan on or before July 1, 2007, the loan will convert to a 4% APR, compounded interest-bearing loan, beginning July 1, 2007 until the loan is repaid.

WHEREAS, All reimbursements to the City or to other parties of the SR132 Loan Package made by StanCOG or any project overrun costs incurred by StanCOG will not decrease the City's state or federal apportionment from any funding source that it would otherwise received in any year.

WHEREAS, the conditions that shall be met to the satisfaction of the City Manager before a loan agreement shall be executed between StanCOG and the City are as follows:

1. StanCOG has negotiated loan agreements or grant awards for a total \$1,555,000 with all participating parties of the funding package. These agreements should commit the respective parties to a specific scheduled payment of funds acceptable to the City.
2. The CTC has approved the required STIP amendment for reimbursement of the loan.
3. StanCOG and Caltrans have executed the required Government Code Section 14529.7 reimbursement agreement for the SR132 Widening Project subject to the terms of the cooperative agreement, which includes the provisions of AB3090 agreement.
4. StanCOG Board has approved the City's annual and supplemental non-transit Local Transportation Fund claim for fiscal year 2003-2004 and the City has received payment of the supplemental claim.

WHEREAS, The City will transmit funds to StanCOG after all loan agreements for the total of \$1,555,000 have been executed and StanCOG has provided the City a complete set of the executed agreements.

NOW, THEREFORE, LET IT BE RESOLVED, that the City Council of Modesto authorizes the City Manager to execute a letter of intent to make a loan agreement with StanCOG; and

BE IT FURTHER RESOLVED that after the conditions of the letter of intent have been satisfied, the City Manager is hereby instructed to return to Council for authority to execute a loan agreement with StanCOG.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager to amend the fiscal year 2003-2004 Operation Budget to include organization 0510-430-4382 SR132 STANCOG LOAN with the expense appropriation of \$400,000 in 0510-430-4382-0497 and revenue funding from the fiscal year 2003-2004 supplemental non-transit local Transportation Fund.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2003, by Councilmember Frohman, 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: Fisher, Hawn, Jackman, Keating, Marsh, O'Bryant
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-633**

A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT FOR AUDIT SERVICES WITH VAVRINEK, TRINE, DAY & CO. FOR THE COMMUNITY FACILITIES DISTRICTS AUDITS AT A COST NOT TO EXCEED \$20,972, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT.

WHEREAS, at its October 22, 2002, meeting the Modesto City Council adopted Resolution 2002-521 approving execution of a contract with Vavrinek, Trine, Day & Co. to perform audits of the City of Modesto Community Facilities Districts, and

WHEREAS, the City Manager executed said contract on behalf of the City of Modesto, and

WHEREAS, the audit firm has requested approval to perform additional work that is outside the scope of the original contract, at a price not to exceed \$20,972, and

WHEREAS, the contract for these audit services requires Modesto City Council approval for such additional work, and

WHEREAS, at its November 24, 2003, meeting the Audit Committee recommended that the Council approve payment for the additional work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the contract for audit services with Vavrinek, Trine, Day & Co., for the Community Facilities Districts audits, authorizing the additional work proposed, at a cost not to exceed \$20,972,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

~~APPROVED AS TO FORM~~
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-634**

A RESOLUTION APPROVING AND ADOPTING THE WATER SUPPLY ASSESSMENT (WSA) PREPARED FOR THE PROPOSED KANSAS-WOODLAND BUSINESS PARK, LOCATED BETWEEN WOODLAND AVENUE, KANSAS AVENUE, SR 99 AND 9TH STREET, WHICH HAS DETERMINED THAT AN ADEQUATE SUPPLY OF WATER IS AVAILABLE TO MEET THE DEMANDS OF THE PROPOSED 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 project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS, the City of Modesto received a request to conduct a WSA for the proposed approval of Kansas-Woodland Business Park ("Project"), and

WHEREAS, Engineering and Transportation staff completed a WSA for the Project, and

WHEREAS, a determination was made that an adequate water supply is available to meet the demands of the proposed Project, located between Woodland Avenue, Kansas Avenue, SR 99 and 9th Street, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on December 8, 2003, and a favorable recommendation was made to forward the WSA to the Council for approval and adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment for the proposed Kansas-Woodland Business Park is hereby approved and adopted. It is further determined that an adequate water supply is available to meet the demands of the proposed Kansas-Woodland Business Park, and that the WSA for the proposed Kansas-Woodland Business Park 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 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-635**

A RESOLUTION APPROVING AND ADOPTING THE WATER SUPPLY ASSESSMENT (WSA) PREPARED FOR THE PROPOSED KAISER PERMANENTE MODESTO MEDICAL CENTER, LOCATED ON DALE ROAD AT THE CORNER OF BANGS AVENUE, WHICH HAS DETERMINED THAT AN ADEQUATE SUPPLY OF WATER IS AVAILABLE TO MEET THE DEMANDS OF THE PROPOSED 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 project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS, the City of Modesto received a request to conduct a WSA for the proposed approval of the Kaiser Permanente Modesto Medical Center (“Project”), and

WHEREAS, Engineering and Transportation staff completed a WSA for the Project, and

WHEREAS, a determination was made that an adequate water supply is available to meet the demands of the proposed Project, located on Dale Road at the corner of Bangs Avenue, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on December 8, 2003, and a favorable recommendation was made to forward the WSA to the Council for approval and adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment for the proposed Kaiser Permanente Modesto Medical Center is hereby approved and adopted. It is further determined that an adequate water supply is available to meet the demands of the proposed Kaiser Permanente Modesto Medical Center, and that the WSA for the proposed Kaiser Permanente Modesto Medical Center 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 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-636**

**A RESOLUTION APPROVING AN UPDATE TO THE DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PROGRAM FOR FEDERALLY FUNDED
STREET AND TRANSIT PROJECTS**

WHEREAS, the Federal Government has adopted Federal Regulation 49 CFR Part 26, which mandates that the City adopt a DBE Program to be eligible to receive federal highway and transit funds, and

WHEREAS, Caltrans has tentatively approved the draft City of Modesto DBE Program for federally funded streets projects, contingent upon Council adopting the program, and

WHEREAS, the recommended overall goal for Modesto in the upcoming year is six percent (6%) DBE participation, and

WHEREAS, the City of Modesto has requested public comments regarding the DBE Program, and none were received, and

WHEREAS, at its December 8, 2003, meeting the Economic Development Committee recommended approval of the DBE Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City of Modesto DBE Program for federally funded streets and transit projects is hereby adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-636A**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PAY UP TO
\$2,000 FOR PARTICIPATION IN THE UNIFIED CERTIFICATION PROGRAM
(UCP) FOR CERTIFYING DISADVANTAGED BUSINESS ENTERPRISES
(DBE) CONTRACTORS**

WHEREAS, the Federal Government has adopted Federal Regulation 49 CFR Part 26, which mandates that the City participate in the California Unified Certification Program (UCP) in order to continue to receive federal highway and transit funding, and

WHEREAS, the California UCP Board screens and certifies potential disadvantaged business contractors, and

WHEREAS, the California UCP Board estimates \$2,000 per agency for participation in the UCP, and

WHEREAS, at its December 8, 2003, meeting the Economic Development Committee recommended approval of City's participation in the UCP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to pay up to \$2,000 for participation in the Unified Certification Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-637**

A RESOLUTION APPROVING AMENDMENT NO. 17 TO THE AGREEMENT FOR KANSAS NEEDHAM OVERHEAD CONSTRUCTION SUPPORT SERVICES WITH PARSONS TRANSPORTATION GROUP IN THE AMOUNT OF \$62,121.38 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, by Resolution No. 88-750, the original Agreement for Engineering Services with Parsons Transportation Group (formerly known as De Leuw, Cather & Company) for the Ninth Street Railroad Relocation Project was approved by Council on October 4, 1988, and

WHEREAS, the initial agreement and seven subsequent amendments were for studies and applications for grants, and

WHEREAS, Amendment Nos. 9, 10, 11, & 12 began the actual design and property research, and

WHEREAS, Amendment No. 12 funded the re-design efforts after Caltrans approved the Kansas Needham Highway 132 realignment project, and

WHEREAS, Amendment No. 13 funded the aesthetic treatments of the Kansas-Needham Overhead, intersection changes to College-Needham, and construction support services, and

WHEREAS, Amendment No. 14 funded an expanded scope of services to address additional design changes and project delays, and

WHEREAS, Amendment No. 15 funded construction support services for the Pacbell retaining wall, resolved submittal issues and errors, and

WHEREAS, Amendment No. 16 continued to fund construction support services to 80 percent project completion, and

WHEREAS, Amendment No. 17 provides further funding for Parsons Transportation Group to resolve construction conflicts and contractor errors to complete the construction of the Kansas Needham Overhead,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 17 to an agreement between the City of Modesto and the Parsons Transportation Group for continued engineering services for the 9th Street Railroad Relocation project (Kansas Needham Overhead) be, and it is hereby approved.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute said amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-638**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT
WITH DOKKEN ENGINEERING FOR PROFESSIONAL DESIGN SERVICES
FOR REPLACEMENT OF THE 9TH STREET BRIDGE OVER TUOLUMNE
RIVER TO PROVIDE UPDATE OF HOURLY BILLING RATES AND
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT
TO AGREEMENT**

WHEREAS, on April 13, 1999, the City of Modesto and Dokken Engineering (CONSULTANT) entered into an Agreement for design services for REPLACEMENT OF THE 9TH STREET BRIDGE OVER TUOLUMNE RIVER, and

WHEREAS, on November 7, 2003, CONSULTANT submitted to the City of Modesto a request for an amendment to the original agreement so as to revise personnel hourly billing rates for the construction support phase of the 9th Street Bridge Replacement project, and

WHEREAS, CONSULTANT'S request for an amendment states an amendment is required due to changes in CONSULTANT's overhead rate and staff assigned to the project, and

WHEREAS, the basis for CONSULTANT's request for an amendment is that the original hourly billing rates were negotiated in April 1999, more than four (4) years ago, and

WHEREAS, the Third Amendment to Agreement for Consultant Services will not increase the amount of the original contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to Agreement for Consultant Services with Dokken Engineering to provide for update of hourly billing rates.

BE IT FURTHER RESOLVED that the execution of said amendment by the City Manager or his authorized designee is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003-639

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE DESIGN OF A DISSOLVED AIR FLOTATION CLARIFIER AT THE WASTEWATER TREATMENT FACILITY

WHEREAS, Wastewater is treated at two locations in the City of Modesto, and

WHEREAS, the City has a state permit to discharge treated wastewater into the San Joaquin River starting October 1 of each year, and

WHEREAS, the treated wastewater has a solids concentration above the state limit and little or no discharge actually occurs in October and November, and

WHEREAS, a reduction of algae solids will allow discharge during these two months, and

WHEREAS, the Operations & Maintenance Department is requesting the engineering design and construction of a Dissolved Air Flotation Clarifier (DAF) to remove algae solids, and

WHEREAS, City desires to hire an engineering firm specializing in sanitary engineering to design the DAF facility, and

WHEREAS, the Engineering & Transportation Department will assist in developing a Request for Qualifications (RFQ) and a Request for Proposals (RFP), and

WHEREAS, City staff will follow Consultant selection procedures and proposed evaluation criteria as set forth in the RFQ, **Attachment "A"**, and the RFP, **Attachment "B"**, attached hereto, and incorporated by reference, and

WHEREAS, the DAF RFQ/RFP process was approved at the November 10, 2003, Economic Development Committee meeting,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the Consultant selection procedures and evaluation criteria for the design of a DAF.

BE IT FURTHER RESOLVED that City staff is hereby authorized to proceed with an RFQ and RFP for design of the DAF at the Wastewater Treatment Facility.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST:


JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY:


Michael D. Milich, City Attorney

December 11, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Qualifications for City of Modesto
Dissolved Air Flotation Facility

Dear Consultant:

The City of Modesto is soliciting qualifications from consultant engineers, specializing in sanitary engineering, for the preparation of contract documents for the construction of a Dissolved Air Flotation Facility. **If you wish to be considered for this work, please submit five (5) copies of the qualifications by 4:00 p.m. by XXXX, 2003 to:**

City of Modesto
Engineering and Transportation Department 4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Dean Phillips

Via Mail: P.O. Box 642, Modesto, CA 95353

Once the qualifications have been evaluated, request for proposals (RFPs) will be sent to the firms City staff have determined are the most qualified to perform the project. Following evaluation of the proposals, interviews will be conducted and the City will select a consultant.

The City will evaluate all qualifications submitted, but the Request for Qualifications does not commit the City of Modesto to award a contract, to pay for any costs incurred in preparation or presentation of a Statement of Qualifications, or to procure a contract for services. The selection considerations for evaluating the Statement of Qualifications is included in this RFQ following the Contents and Requirements section.

BACKGROUND:

Wastewater is treated at two locations in the City of Modesto. Primary treatment occurs at the Sutter Avenue facility and is pumped to the Secondary site on Jennings Road adjacent to the San Joaquin River. Once treated at both sites, the City has a state permit to discharge into the San Joaquin River starting October 1 of each year. However, the treated effluent has a solids concentration above the state limit, and little or no discharge has actually occurred in October and November. Reduction of algae solids in the wastewater storage ponds will allow discharge during these two months, and will represent an immediate increase in disposal capacity.

The Dissolved Air Flotation (DAF) clarifier is the technology chosen for this application. DAF clarifiers have been used effectively for well over a decade at several California wastewater treatment plants, including those at Sunnyvale, Stockton, and Rancho Murieta.

PLAN OF STUDY:

(A more detailed work plan will be included below in the final RFQ)

STATEMENT OF QUALIFICATIONS CONTENTS AND REQUIREMENTS:

Each proposal shall include the following information:

PROJECT MANAGER: The consultant's Project Manager is defined to be the individual within the prime consultant's firm who is directly responsible for and engaged in performing the required services. The Project Manager is the most knowledgeable individual regarding all aspects of the project but not necessarily a principal of the firm. The Project Manager should be located within two hours travel time of the project site.

Consultant is to provide the Project Manager's:

- Name and title, name of firm employed by, years of experience with this firm, and years of experience with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experiences: For not more than five (5) projects, provide the following information on two pages. Include project(s) he/she is currently working on and schedule to which he/she is committed.
 - Owner (or client firm is subconsultant), project description (including size), location and completion date.
 - Name, address and phone number of knowledgeable owner/client's representative.

- Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
- Firm with which the individual was employed during project experience.

OTHER KEY PROJECT STAFF: Not more than four individuals may be listed. Provide for each individual:

- Name
- Specific project responsibility and functions to be performed
- Name of firm employed and office location where individual will perform required project services
- Years of experience with this firm and with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experience (not more than five projects)
 - Owner, project description (including size), location and completion date.
 - Name, address and phone number of knowledgeable owner/client's representative.
 - Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
 - Firm with which the individual was employed during project experience.

FIRM(S) EXPERIENCE AND PRODUCTION CAPABILITIES: The following information is required for the prime consultant and any proposed subconsultant:

- Office address(s) in which services are to be performed and percentage of work to be performed in each office.
- Percentage of total fees in last five years, firm wide, received from similar service.
- Facilities, manpower and production capabilities of office(s) in which work is to be performed.
- Listing of recent experience related to this project in California, including type and size of consulting services provided and name, address, and phone number of knowledgeable owner/client representative.

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any subconsultant firms proposed by the consultant will also be considered when applying this

policy. The funding source for this project does not prohibit the application of this policy in this case.

SELECTION CONSIDERATIONS:

Rating 1-5

A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.
2. Broad character and scope of past projects.
3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.
4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.
5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.
7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.
8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.
10. Location of firm in relation to City of Modesto and project size.
11. General comprehension of the study assignment and responsiveness to special study requirements.
12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.

SUBJECT: Request for Qualifications for City of Modesto
Dissolved Air Flotation Facility

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13. Firm reputation as relates to principles, credibility, and attitude.

ADDITIONAL INFORMATION:

Use up to 2 pages to provide any additional information supporting your firm's qualifications for the proposed project.

The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy statements of qualifications are neither expected nor desired.

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

MILESTONE	DATE
Issue Request for Qualifications (RFQ's)	TBD
RFQ's Due	TBD
Select and Issue Request for Proposals (RFP's)	TBD
RFP's Due	TBD
Consultants Interviews	TBD
Award Contract	TBD

A selection committee will review the responses and determine the best-qualified consultant(s), which will be invited to respond to an RFP.

If you have any questions, please contact me at (209) 577-5215.

Sincerely,

Dean Phillips
Sr. Civil Engineer

December 11, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Proposals for City of Modesto
Dissolved Air Flotation Facility

Dear Consultant:

The City of Modesto is soliciting proposals from consultant engineers, specializing in sanitary engineering for the preparation of contract documents for the construction of a Dissolved Air Flotation Facility. Your firm has been selected to submit a proposal from those firms which submitted a statement of qualifications. **If you wish to be considered for this work, please submit five (5) copies of the proposals by 4:00 p.m. by XXXX, 2003 to:**

City of Modesto
Engineering and Transportation Department
4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Dean Phillips

Via Mail: P.O. Box 642, Modesto, CA 95353

Following evaluation of the proposals, interviews will be conducted and the City will select a consultant.

The City will evaluate all proposals submitted, but this Request for Proposals does not commit the City of Modesto to award a contract, to pay for any costs incurred in preparation or presentation of a Proposal, or to procure a contract for services. The selection considerations for evaluating the Proposal is included in this RFP following the Contents and Requirements section.

PROPOSAL CONTENTS AND REQUIREMENTS:

Each proposal shall include the following sections:

1. Scope of Services

The Scope of Services section shall include a description of the intended approach to complete the project study report. The consultant should specify data and the expected level of support from City staff and a description of the project deliverables.

2. Project Team and Experience

This section should include the size of the organization and a list of the consultant's principals, employees, agents, and subconsultants, which the proposer anticipates assigning to this project. This list shall include a summary of the qualifications, licenses, and experience of each individual, the type of work to be performed and availability of each individual.

Additionally, this section will include a list of the most recent projects for which the consultant has performed similar services of similar scope, size, and complexity. This list shall include the name, contact person, address, and phone number of each party for whom the service was provided, as well as a brief description of the service performed, the dollar amount of the contract, and the date the project was completed.

3. Project Schedule

The consultant shall provide a proposed schedule for all services necessary to complete the project specifying the major tasks, the expected time to complete each task, and the interdependency of the tasks.

4. Estimated Level of Effort

The consultant shall provide an estimate of staff time, by task presented in the project schedule. This section will not include any estimate of costs.

5. Proposed Compensation

The consultant shall provide, in a separately sealed and clearly marked envelope, the cost to be charged to the City by task and a total proposed project cost. The cost proposal shall identify the overall multiplier and include direct labor costs and expenses including travel and high-end computer use. Cost proposals will not be opened until after each firm interviewed has been ranked and the firm deemed most qualified has been selected. All cost proposals will then be opened and will form the basis of negotiations for the contract.

6. Contract

The successful firm will be asked to execute the City's standard agreement for consultant services. A copy is attached for reference. (Attachment X) The proposal shall note any exceptions to the standard contract that would prevent the consultant from executing the contract in its present form.

7. Insurance Certificate

A consultant providing a copy of its insurance certificate, or a letter of intent to provide insurance from the issuing company (including a description of types of coverage and dollar amount limits) may be favorably considered.

8. Resumes

Consultant shall provide resumes for each individual project team member.

The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy proposals are neither expected nor desired.

PROJECT DESCRIPTION:

(A detailed project description will be included below in the final RFP)

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any sub-consultant firms proposed by the consultant will also be considered when applying this policy.

SELECTION CONSIDERATIONS:

Rating 1-5

A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.
2. Broad character and scope of past projects.

3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.
4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.
5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.
7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.
8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.
10. Location of firm in relation to City of Modesto and project size.
11. General comprehension of the study assignment and responsiveness to special study requirements.
12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.
13. Firm reputation as relates to principles, credibility, and attitude.

AWARD OF AGREEMENT:

Negotiations will begin with the firm deemed most qualified. If agreement cannot be reached in negotiations, the City will begin negotiations with the firm that is judged to be next most qualified. If the City determines to award the agreement, a Professional Services Agreement shall be sent to the successful consultant for the consultant's signature. No proposal shall be binding upon the City until after the agreement has been signed by duly authorized representatives of both the consultant and the City. The City reserves the right to reject any or all proposals, and to waive any irregularity. The award of the agreement, if made by the City, will be based on a total review and analysis of each

proposal and interview. The consultant will be required to submit insurance verification as noted in the standard contract prior to execution of the contract.

CONFLICT OF INTEREST:

The City's Conflict of Interest Code requires that consultants file a Statement of Economic Interests, when the consultant provides information, advice, recommendations or counsel to the City. Before the City enters into a contract for services with the selected firm, the firm will be required to report economic interest on the following:

1. Real Property Interest (geographically limited)
2. Sources of Income
3. Business Positions
4. Business Investments

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

MILESTONE	DATE
Issue Request for Proposals (RFPs)	TBD
RFPs Due	TBD
Consultants Interviews	TBD
Award Contract	TBD

If you have any questions, please contact me at (209) 577-5260.

Sincerely,

Dean Phillips
Sr. Civil Engineer

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 -640**

**A RESOLUTION APPROVING A SUPPLEMENTAL LEASE AGREEMENT
WITH THE GENERAL SERVICES ADMINISTRATION FOR OFFICE SPACE
AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON
BEHALF OF THE CITY**

WHEREAS, the City of Modesto and the General Services Administration entered into a Lease Agreement on November 20, 2002, for office space at the Modesto City-County Airport, and

WHEREAS, said office space is being used by the Transportation Safety Administration to house its security staff serving the Modesto City-County Airport, and

WHEREAS, the General Services Administration foresees the need to extend its lease with the City of Modesto for a one year period, and

WHEREAS, the current lease and subsequent amendments provide for a lease period that expires February 28, 2004, and

WHEREAS, the General Services Administration has requested that the lease be extended to February 28, 2005, and

WHEREAS, Airport staff does not anticipate the need to use said office space during the one-year extension period requested.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Supplemental Lease Agreement 5 to the General Services Administration Lease No. GS-09B-01257.

BE IT FURTHER RESOLVED that the City Manager or his authorized designee is authorized to execute the Supplemental Lease Agreement on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 641

A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL 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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: Mike Milich
MIKE MILICH, City Attorney

Budget Adjustments for the Month of November 2003

Item #	Type of Account	Description	Fund	Agcy	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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<i>Operations & Maintenance Department</i>										
#1										
			From:							
	Appropriation	CFF - Other Fund Reserve	1380	800	8000	8003	1380r		-\$150,000	-\$150,000
			To:							
	Appropriation	Land Acquisition	7200	480	H028	6030	H028		\$150,000	\$150,000
	Justification	Adjustment needed in order to purchase land. This increase will be funded by the Capital Facilities Fee Fund Other Facilities								
			To:							
#2	Appropriation	Land Acquisition	7200	480	J879	6030	J879	66,588	-53,428	13,160
		Construction	7200	480	J879	6040	J879	355,672	-122,585	233,087
			To:							
	Appropriation	Construction	0700	480	L116	6040		250,000	176,013	426,013
			From:							
	Transfer	Transfer funds to Traffic Operations Corp Yard	7200	700	L116	7070	L116G		176,013	176,013
			To:							
	Transfer	Receive funds from Fleet Reserve	0700	700	L116	9720			176,013	176,013
	Justification	The bids for the Traffic Operations Building came in higher than estimated. These buildings are needed due to the displacement by the new Bus/Fleet Maintenance Facility. In order to proceed with the Traffic CIP, staff needs to close the Fleet Service Police Shop CIP #J879 and reallocate those funds to the Traffic Operations Corp Yard Relocation CIP #L116.								
<i>City Manager's Office</i>										
			From:							
#3	Revenue	Capital Facilities Fee	1390	120	1296	4015	1390c	112,000	-112,000	0
		Interest	1390	120	1296	6101	1390c	\$9,000	-\$9,000	\$0
			To:							
	Revenue	Capital Facilities Fee	1390	020	0260	4015	1390c	\$0	\$15,000	\$15,000
		CFF > 9/1/99	1390	020	0260	4049	1390c	\$0	\$99,000	\$99,000
		CFF Sept 03 - City Limits	1390	020	0260	4152	1390c	\$0	\$2,000	\$2,000
		CFF Sept 03 - Sphere of Influence	1390	020	0260	4153	1390c	\$0	\$1,000	\$1,000
		Interest	1390	020	0260	6101	1390c	\$0	\$4,000	\$4,000
			From:							
	Appropriations	Services: Professional & Other	1390	120	1281	0235	1390c	\$227,877	-\$227,877	\$0
		Services: City Forces	1390	120	1281	0255	1390c	\$21,000	-\$21,000	\$0
			To:							
	Appropriations	Services: Professional & Other	1390	020	0260	0235	1390c	\$0	\$28,877	\$28,877
		CFF 5-year update	1390	020	0260	0242	1390c	\$0	\$65,000	\$65,000
		CFF 5-year finding report	1390	020	0260	0243	1390c	\$0	\$10,000	\$10,000
		CFF funding for GP changes	1390	020	0260	0244	1390c	\$0	\$20,000	\$20,000
		Services: City Forces	1390	020	0260	0255	1390c	\$0	\$125,000	\$125,000
	Justification	To establish a CFF Administration budget for FY03-04. This budget is currently under the Finance Department and needs to be transferred to the City Manager's office.								

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-642**

**A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE
LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR FISCAL YEAR 2003-
2004, FOR NON-TRANSIT PURPOSES ONLY, TO THE STANISLAUS
COUNCIL OF GOVERNMENTS (STANCOG)**

WHEREAS, on May 27, 2003, the City Council approved the fiscal year 2003-2004 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 12, 2003, the 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, the 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, the StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities uses pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, the StanCOG has informed the Finance Department that the City of Modesto may claim \$2,612,755 of Annual LTF for street purposes, and \$119,726 for pedestrian and bicycle projects, and

WHEREAS, the StanCOG has informed the Finance Department that the City of Modesto may claim \$424,270 of Supplemental LTF for street purposes, and \$8,020; for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto,

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 2003-2004 Annual and Supplemental LTF to StanCOG to obtain non-transit funds in the amount of \$3,164,771.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM
By Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-643**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 OPERATING
BUDGET TO OBLIGATE UNBUDGETED LOCAL TRANSPORTATION FUNDS
(LTF).**

WHEREAS the Council of the City of Modesto had approved and authorized the execution and submission of the claim for apportionment of the fiscal year 2003-2004 Annual and Supplemental Local Transportation Funds (LTF) to StanCOG to obtain non-transit funds in the amount of \$3,164,771, and

WHEREAS, \$537,025 of the LTF street and 7,746 of the non-motorized funds were not obligated in the City's fiscal year 2003-2004 Operating and Capital Improvement Program Budgets, and

WHEREAS, these funds must be budgeted before they can be used for transportation projects or programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2003-2004 Operating Budget is hereby amended as follows:

1. Increase the revenue budgeted in 0510-430-4310-1213 from \$2,500,000 to \$3,037,025, and
2. Increase the revenue budgeted in 0520-430-4320-1216 from \$120,000 to \$127,746.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-644**

**A RESOLUTION AUTHORIZING THE AWARD OF THE BID FOR THE
ONLINE FURNISHING OF BUSINESS CARDS, LETTERHEAD AND PRINTED
ENVELOPES TO PINNACLE SOLUTIONS INC., D.B.A. DITTOS, MODESTO,
CA FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR
EXTENSION OPTIONS**

WHEREAS, in order to provide a more efficient, cost effective means for the City to purchase printed stationery, the Purchasing Division submitted a bid to prospective vendors for the furnishing of business cards, letterhead and printed envelopes through online ordering, and

WHEREAS, City departments and divisions shall have the ability to place orders directly online by means of an electronic account accessed by an electronic pass code, and

WHEREAS, the Purchasing Division will maintain the "City Wide" list of electronic accounts and pass codes, and

WHEREAS, online ordering will expedite the order process and, the requestor can review and confirm a color proof at order entry, thus reducing staff time by eliminating the need to fax or mail proofs, and

WHEREAS, in July 2003, Council approved Resolution No. 2003-410 authorizing the Purchasing Supervisor to formally solicit bids for the online furnishing of business cards, letterhead and printed envelopes "City Wide", and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-35 for the online furnishing business cards, letterhead and printed envelopes, and

WHEREAS, eleven (11) vendors were solicited, plus the bid was posted on the City's web site. Of the eleven (11) vendors solicited, five (5) vendors chose to respond, and

WHEREAS, on September 23, 2003 bids were opened and recorded in the City Clerk's office, and

WHEREAS, based on being the lowest responsive and responsible bidder it is recommended by staff that the City award the bid for the online furnishing of business cards, letterhead and printed envelopes to Pinnacle Solutions Inc., d.b.a. Dittos, Modesto, CA for an estimated annual cost of \$9,102.18, for a three (3) year agreement with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid to Pinnacle Solutions Inc., d.b.a. Dittos, Modesto, CA., for the online furnishing of business cards, letterhead and printed envelopes for an estimated annual cost of \$9,102.18, for a three (3) year agreement with 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 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
Michael D. Milich, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-645**

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND PACIFIC BELL WIRELESS, A NEVADA LIMITED LIABILITY CORPORATION, DBA CINGULAR WIRELESS, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF BEYER COMMUNITY PARK, WITH THREE FIVE-YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT.

WHEREAS, Pacific Bell Wireless, a Nevada limited liability corporation, dba Cingular Wireless, desires to lease a cellular tower site located on a portion of Beyer Community Park with three five-year options to extend the lease, for the installation of phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Beyer Community Park to Cingular Wireless for said use for the sum of \$1,400.00 per month with a rental increase equal to the Consumer Price Index for the San Francisco/Oakland/San Jose MSA at the beginning of each renewal period, and

WHEREAS, Cingular Wireless is also willing to pay the City a lump sum of \$7,768.70 for the purpose of offsetting a portion of the cost of installation of scoreboards for the ball fields at Beyer Park,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the Five-Year Lease Agreement between the City of Modesto and Pacific Bell for a cellular site located on a portion of Beyer Community Park, with three, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the execution of said Lease Agreement by the City Manager, or his designee is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-646**

A RESOLUTION APPROVING A WAIVER OF THE RESIDENCY REQUIREMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT EMERGENCY HOME REPAIR LOANS TO ALLOW VIRGINIA BROWN, DAUGHTER OF DECEASED LOAN RECIPIENT VIRGIE BROWN TO REMAIN IN THE HOME AT 1626 CARLTON, AND DIRECTING STAFF TO SEND WRITTEN NOTIFICATION TO VIRGINIA BROWN THAT THE LOAN WILL BE REVIEWED IN 2009.

WHEREAS, in December, 1995, Virgie M. Brown received an Emergency Home Repair Loan for rehabilitation of her home at 1626 Carlton Avenue, and

WHEREAS, the loan is deferred until 2045, and

WHEREAS, a requirement of the loan is that the residence be owner-occupied, and

WHEREAS, staff recently learned that Virgie M. Brown is deceased, and

WHEREAS, her disabled adult daughter, Virginia Brown, continues to occupy the home, and is unable to pay off the loan, and

WHEREAS, staff has received a request from Stanislaus County Adult Protective Services (APS), requesting that Virginia Brown be allowed to remain in the home, and

WHEREAS, the Housing Rehabilitation Loan Committee met on, November 6, 2003, and supported the recommendation to allow Virginia Brown to remain in the home and that no legal action be taken,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a waiver of the residency requirement for Community Development Block Grant Emergency Home Repair Loans to allow Virginia Brown, daughter of deceased loan recipient Virgie Brown to remain in the home at 1626 Carlton.

BE IT FURTHER RESOLVED that staff is hereby directed to send written notification to Virginia Brown that the loan will be reviewed in 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-647**

**A RESOLUTION APPROVING AN EXTENSION OF AN AGREEMENT
BETWEEN THE CITY OF MODESTO AND VALLEYCREST GOLF COURSE
MAINTENANCE TO PROVIDE MAINTENANCE SERVICES AT THE CITY'S
THREE GOLF COURSES AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT.**

WHEREAS, the City owns, operates and manages the Municipal Golf Course ("Municipal Course"), Dryden Park Municipal Golf Course ("Dryden Course"), and Creekside Municipal Golf Course ("Creekside Course"), and

WHEREAS, on September 7, 1999, the City of Modesto and ValleyCrest (formerly known as Environmental Golf Inc.) entered into an Agreement under authority of Resolution No. 99-446 to provide maintenance services at the City's three golf courses, and,

WHEREAS, it is the desire of the City and ValleyCrest to continue as the maintenance provider at Municipal Course, Dryden Course, and Creekside Course, and

WHEREAS, at their June 2, 2003, meeting, the Safety and Communities Committee recommended to continue negotiations with ValleyCrest and to exercise its right to offer to extend agreements with ValleyCrest as of June 30, 2003, and

WHEREAS, at their August 4, 2003 meeting, the Safety & Communities committee recommended a five-year extension of the agreement with the City of Modesto and ValleyCrest,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into an agreement with ValleyCrest Golf Course Maintenance to provide maintenance services at the City's Municipal Course, Dryden Course, and Creekside Course.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-648**

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO A'S PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

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

WHEREAS, on January 26, 1999, the City of Modesto and the Modesto A's entered into a license agreement under authority of Resolution No. 99-44 for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto to continue to lease John Thurman Field to the Modesto A's Professional Baseball Club, and

WHEREAS, it is the desire of the City to enter into a license agreement with the Modesto A's Professional Baseball Club for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005, and

WHEREAS, at their December 1, 2003, meeting, the Safety and Communities Committee recommended to enter into a two-year license agreement with the Modesto A's Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a license agreement with the Modesto A's Professional Baseball Club to lease John Thurman Field, for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-649**

**A RESOLUTION APPROVING A FIELD MAINTENANCE AGREEMENT
BETWEEN THE CITY OF MODESTO AND THE MODESTO A'S
PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT**

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

WHEREAS, on January 26, 1999, the City of Modesto and the Modesto A's entered into an agreement under authority of Resolution No. 99-45 for the field maintenance of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto to continue field maintenance at John Thurman Field with the Modesto A's Professional Baseball Club, and

WHEREAS, it is the desire of the City to enter into a field maintenance agreement with the Modesto A's Professional Baseball Club for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005, and

WHEREAS, at their December 1, 2003, meeting, the Safety and Communities Committee recommended to enter into a two-year maintenance agreement with the Modesto A's Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a maintenance agreement with the Modesto A's Professional Baseball Club to lease John Thurman Field, for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-650**

**A RESOLUTION APPROVING A THREE (3%) PERCENT INCREASE IN
SALARY FOR THE CITY CLERK/AUDITOR.**

WHEREAS, by Resolution No. 2003-330 effective June 26, 2003, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 03-04 Effective July 1, 2003," for Executive Management (Exhibit "O"), 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 (3%) percent increase in salary to JEAN ZAHR, City Clerk/Auditor, effective December 16, 2003, which increase is within the range established in Exhibit "O" of Resolution No. 2003-330,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a three (3%) percent increase in salary to JEAN ZAHR, City Clerk/Auditor, effective December 16, 2003, as follows:

Title	Hourly	Bi-Weekly	Monthly
City Clerk/Auditor	\$39.1326	\$3,130.60	\$6,809.06

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-651**

**A RESOLUTION AUTHORIZING STAFF TO RECONFIGURE TRAFFIC
FLOW FROM 9TH STREET TO ACCESS THE KANSAS NEEDHAM
OVERCROSSING (KNOC) PROJECT AND UPDATE THE EXISTING TRUCK
ROUTE MAP AND RESCINDING RESOLUTION NO. 2001-46**

WHEREAS, Section 3-2.1301(d) of the Modesto Municipal Code of the City of Modesto authorizes the Council to determine and designate truck routes by resolution, which designation shall become effective when appropriate signs are placed giving notice of said designations to the public, and

WHEREAS, by Resolution No. 75-465, adopted on April 14, 1975, the City Council designated truck routes in the City of Modesto, and

WHEREAS, by Resolution No. 90-795, adopted on September 25, 1990, the City Council designated truck routes in the City of Modesto, and

WHEREAS, by Resolution No. 2001-46, adopted on February 6, 2001, the City Council re-designated truck routes in the City of Modesto, and

WHEREAS, with the completion of the Kansas/Needham Overcrossing (KNOC), staff is recommending that City Council amend its current truck routes to include 10th and O Streets, and

WHEREAS, these changes are being recommended to enable traffic flow from 9th Street onto the new KNOC, and

WHEREAS, on June 5, 2003, staff mailed a letter to approximately 32 business owner/residents requesting feedback for the proposed truck route changes, and

WHEREAS, the Citizens Redevelopment Advisory Commission (RDA) Traffic sub-committee, ADK Permits, and Cal Permits have endorsed these new truck routes, and

WHEREAS, on July 17, 2003, staff met with the RDA Traffic Sub-committee and Steve Madison from Petrulakis, Jensen, Friedrich and Cabral to find alternative off-street parking to accommodate the Parks Printing employees, and

WHEREAS, the Economic Development Committee reviewed and approved of staff redesignating the truck routes and proceed with parking removal on 10th Street between O Street and Needham Avenue and O Street between 9th and 10th Streets, as requested, at their meeting on August 11, 2003, and

WHEREAS, staff presented this item to City Council on September 2, 2003 and staff was directed to meet with business owners and residents to find alternative parking for employees, and

WHEREAS, on December 3, 2003, staff met with Bud and Frank Parks from Parks Printing, Sheila Birch from The Carrot, and Barbara Savery from Petrulakis, Jensen, Friedrich & Cabral and they desired Alternative 3 which designates 10th Street one-way, from Needham to O Streets, southbound direction, and O Street one-way, from 10th to 9th Street, westbound direction, and

WHEREAS, the Economic Development Committee at their December 8, 2003 meeting, reviewed and approved staff's recommendation of Alternative 3,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to proceed with Alternative 3 which designates 10th Street one-way, from Needham to O Streets, southbound direction, and O Street one-way, from 10th to 9th Streets, westbound direction and to update the truck route map, as follows:

SECTION 1: Truck routes are hereby designated as shown on the maps entitled, "Modesto Truck Routes".

SECTION 2. The Engineering and Transportation Director is hereby directed to cause the truck routes to be marked and designated in accordance with the provisions of this resolution.

SECTION 3. The provisions of this resolution shall be subject to the provisions of Section 3-2.815 of the Modesto Municipal Code requiring the approval of the Caltrans insofar as they pertain to the regulations of traffic upon State highways within the City.

SECTION 4. Resolution No. 2001-46 adopted by the Council on February 6, 2001, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

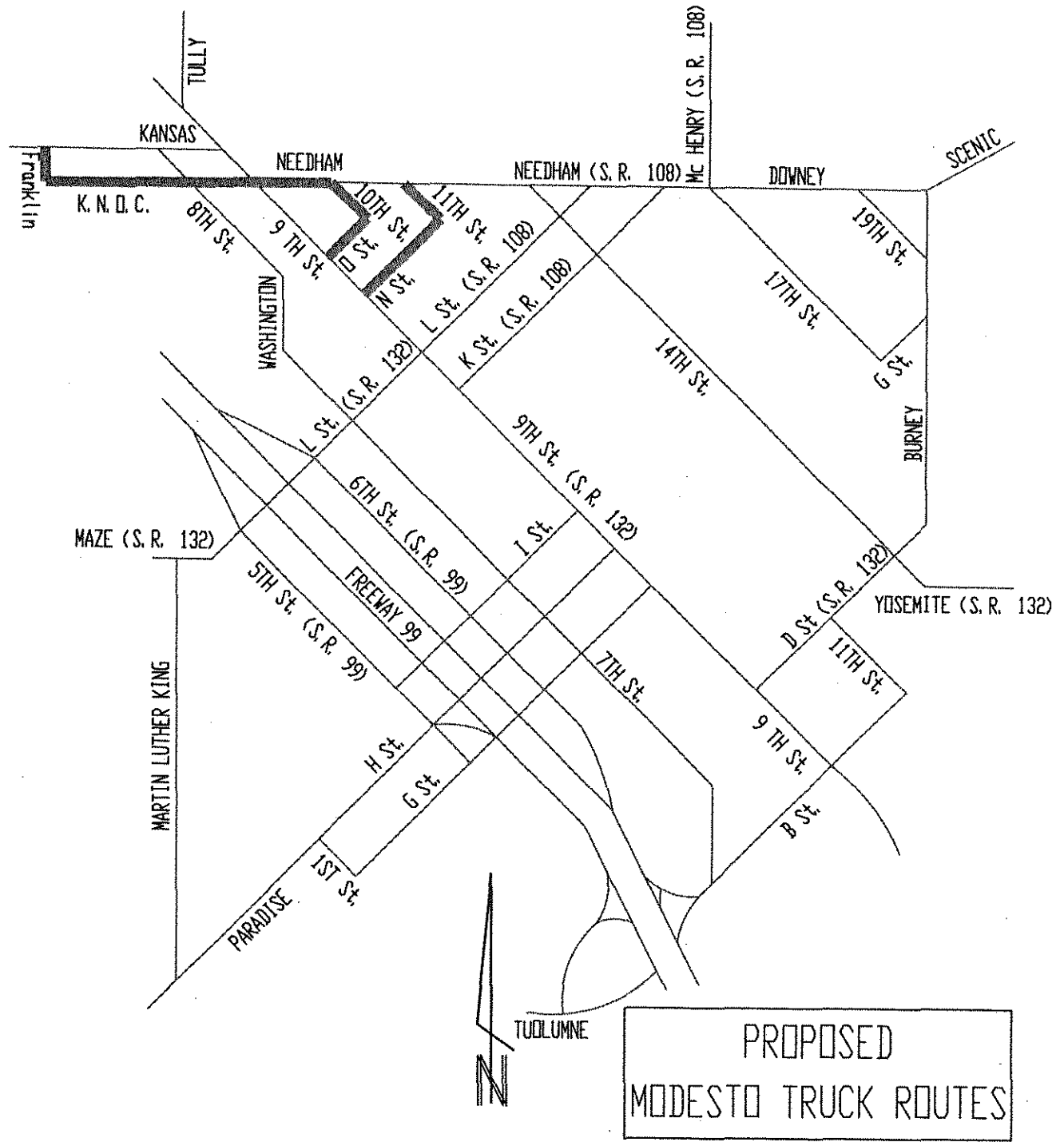
ABSENT: Councilmembers: Keating, O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, CITY ATTORNEY

2003-651



PROPOSED
MODESTO TRUCK ROUTES

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-652**

A RESOLUTION APPROVING THE REQUEST FROM HABITAT FOR HUMANITY FOR A DEFERRAL OF THE CITY'S CAPITAL FACILITIES FEES (CFF) TOTALING \$44,955 FOR FIVE PROPERTIES IN RIVERDALE TRACT FOR LOW-INCOME HOUSEHOLDS, LOCATED OUTSIDE OF THE MODESTO CITY LIMITS, BUT WITHIN THE CITY'S SPHERE OF INFLUENCE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIVE (5) EXEMPTION/DEFERRAL AGREEMENTS WITH HABITAT FOR HUMANITY AND TO EXECUTE DEFERRAL OR EXEMPTION AGREEMENTS WITH THE NEW PROPERTY OWNERS, AS THE HOMES ARE SOLD TO HOUSEHOLDS WITH INCOME LESS THAN 80% OF THE MEDIAN AREA INCOME.

WHEREAS, on September 11, 2003, Anita Hellam, Executive Director of the Habitat for Humanity local chapter, submitted a letter requesting a waiver of the CFF fees totaling \$44,955 for five properties located in the Riverdale Tract, and

WHEREAS, Habitat for Humanity is a non-profit organization created in 1976 which through volunteer labor and donations of money and materials builds and rehabilitates simple, decent houses with the help of the homeowner (partner) families, and

WHEREAS, Habitat for Humanity's houses are sold to partner families at no profit, financed with affordable, no-interest loans with the loan payments based on what is affordable to the families, and the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, in essence, Habitat for Humanity creates affordable houses for low-income households, and

WHEREAS, The Stanislaus Chapter of Habitat for Humanity will be building five new homes in the Riverdale Tract which is located outside the City limits but within the

City's Sphere of Influence; this area is located near Hatch and Carpenter, and is in a housing area adjacent to the Tuolumne River, and

WHEREAS, the empty lots are currently owned by Habitat for Humanity and the houses to be built will be approximately 1,100 square feet with an attached one-car garage, and will be elevated above the flood plain, and

WHEREAS, the new homeowners will either be eligible for an exemption or deferral of CFF based on household income and family size, and

WHEREAS, the CFF Steering Committee reviewed and supported this item at its meeting of October 9, 2003, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of a deferral of the City of Modesto's Capital Facility Fees totaling \$44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City's Sphere of Influence,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the request from Habitat for Humanity for an exemption of the City's Capital Facilities Fees (CFF) totaling \$44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City's Sphere of Influence.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the five (5) exemption/deferral agreements with Habitat for Humanity.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute deferral or exemption agreements with the new property owners, as the homes are sold to households with income less than 80% of the Median Area Income.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-653**

A RESOLUTION APPROVING A REFUND TO HABITAT FOR HUMANITY FOR \$3,831 PAID FOR CAPITAL FACILITIES FEES (CFF) ON TWO PROPERTIES (1714 OLYMPIA STREET AND 530 BUTTE AVENUE) LOCATED OUTSIDE OF THE CITY LIMITS, BUT WITHIN THE SPHERE OF INFLUENCE, AUTHORIZING THE CITY MANAGER TO EXECUTE A REFUND AGREEMENT WITH HABITAT FOR HUMANITY, A CFF DEFERRAL AGREEMENT WITH ANASTACIO L. AND TINA R. RAYGOZA FOR 1714 OLYMPIA STREET, AND A CFF EXEMPTION AGREEMENT WITH FERNANDO AND ANALUCIA V. CORTES FOR 530 BUTTE AVENUE.

WHEREAS, on September 11, 2003, Anita Hellam, Executive Director of the Habitat for Humanity local chapter, submitted a letter requesting a refund for CFF fees already paid on two properties on Olympia Avenue and Butte Street, and

WHEREAS, Habitat for Humanity is currently building homes at 1714 Olympia Street and 530 Butte Avenue, and

WHEREAS, both properties are in the County, but within the City's Sphere of Influence, and

WHEREAS, at the time the permits were issued, the City charged CFF in the amount of \$1,834 for 1714 Olympia Street, and \$1,997 for 530 Butte Avenue, and

WHEREAS, the Building Inspection Division was not aware that there had been residences on these properties previously which were built in the 1940's and demolished in 1979 and 1998 respectively, and

WHEREAS, the CFF fees paid by Habitat for Humanity for the Olympia and Butte properties in the total amount of \$3,831 should not have been charged per City Council Resolution 2001-124 because there had been homes on the property previous to 1989, and

WHEREAS, at its meeting on October 9, 2003, the CFF Steering Committee reviewed and supported this item, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of a refund to Habitat for Humanity for \$3,831 paid in error for Capital Facilities Fees on two properties at 1714 Olympia Street and 530 Butte Avenue; and to consider approval of a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street, and approval of a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a refund to Habitat for Humanity for \$3,831 paid in error for Capital Facilities Fees on two properties at 1714 Olympia Street and 530 Butte Avenue located outside of the City Limits, but within the Sphere of Influence.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a refund agreement with Habitat for Humanity.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-654**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF
MODESTO 2003-2004 HUD ANNUAL ACTION PLAN.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

WHEREAS, City staff has proposed amendments to the Annual Action Plan, and said proposed amendments are as set forth in Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to notify the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began November 10, 2003, and ended on December 11, 2003, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, 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 2003-2004 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2003-2004 Annual Action Plan as presented to the Council is hereby approved, a copy of said Amendment to the 2003-2004 Annual Action Plan 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 City Manager or his authorized designee is hereby authorized to execute any documents with respect to the Amendment to be submitted to the Regional HUD office.

BE IT FURTHER RESOLVED that any and all documents necessary to implement the Action Plan shall require further Council approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

<u>FY03-04 CDBG Funding Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Entitlement		2,890,000		2,890,000
Revolving Loan Fund (RLF)		1,200,000		1,200,000
Program Income		300,000	-100,000	200,000
Reprogram			1,137,425	1,137,425
CDBG TOTAL	4,390,000	4,390,000	1,037,425	5,427,425

<u>FY03-04 CDBG Annual Action Plan Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Housing Development, Preservation & Home Ownership		2,303,399	120,000	2,423,399
First-Time Homebuyers Classes		2,000		2,000
Down Payment Assistance Program		303,000	120,000	423,000
Housing Rehabilitation Loans		1,050,000		1,050,000
Property Enhancement		10,000		10,000
Paint/Insulation Rebate		20,000		20,000
Tool Bank Program		2,500		2,500
Emergency Home Repair / Disabled Access Assistance		150,000		150,000
Building Code Enforcement		51,000		51,000
Lead-Based Paint Services		3,000		3,000
Housing Demolition		10,000		10,000
Temporary Relocation		22,500		22,500
Rehabilitation Services		679,399		679,399
Infrastructure & Public Improvement	1,465,000	494,320	868,852	2,828,172
ADA Improvements - Curb Ramps		143,920	74,000	217,920
Street Paving in Low Income Areas		308,400	136,000	444,400
Neighborhood-Based Projects		40,000		40,000
Property Agent		2,000	3,000	5,000
ADA Improvement - Centre Plaza Elevator	307,000		50,000	357,000
ADA Improvement - King Kennedy Center	241,000		40,000	281,000
Street Paving at Hillside Drive Extension	392,000		5,100	397,100
Property Acquisition	525,000		-150,000	375,000
Homeless Day Facility			150,000	150,000
Engineering Design for Hillside Drive Improvement - Kerr Avenue to South Santa Cruz			55,000	55,000
Street Paving in Rumble			200,000	200,000
Social Security Building Retrofit			305,752	305,752

<u>FY03-04 CDBG Annual Action Plan Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Neighborhood Preservation & Stabilization		361,690		361,690
Alley Closure		25,668		25,668
Neighborhood Clean-up Projects		30,000		30,000
Code Enforcement		244,686		244,686
Community Based Development Organizations		61,336		61,336
Economic Development		59,091		59,091
Workforce Development Program		35,000		35,000
Workforce Development Program Support		24,091		24,091
Public Services (15%)		433,500	68,573	502,073
Stanislaus Literacy Center		33,500		33,500
"Literacy, English, Pre-GED for Adults"		15,000		15,000
Interfaith Ministries "Redwood Family Center"		20,000		20,000
Salvation Army "Senior Meals Program"		40,427	-40,427	
YMCA "Airport District Outreach Services"			40,000	40,000
Modesto School "21 Century After-School Learning Program"		20,000		20,000
Salvation Army "Subsidized Childcare"		23,493		23,493
Parent Resource Center "Parenting Basics Project"		37,440		37,440
CHSS "Children's Activity Coordinator"		32,448		32,448
CHSS "Services for JUST KIDS"		150,000		150,000
MPD "Crime Free Multi-Housing Project"		18,200		18,200
Children's Crisis Center "Cricket's House"		20,125		20,125
Project Sentinel "Fair Housing"		22,867		22,867
"Second Harvest Food Bank"			69,000	69,000
Emergency Shelter Services				
CDBG Unobligated Public Service Funds				
Program Administration & Planning (20%)		638,000	-20,000	618,000
General Administration		505,324	-40,000	465,324
Indirect Administration		82,008		82,008
Fair Housing Services		35,000		35,000
Planning & Capacity Building - for Analysis of Impediments to Fair Housing		15,668	20,000	35,668
Loan Repayments		100,000		100,000
Neighborhood Center at Marshall Park/ Maddux Youth Center Section 108 Loan		100,000		100,000
CDBG TOTAL	1,465,000	4,390,000	1,037,425	6,892,425

Exhibit A
(CDBG)

<u>FY03-04 HOME Funding Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Entitlement		1,381,576		1,381,576
Program Income		100,000		100,000
Reprogram			1,190,162	1,190,162
HOME TOTAL		1,481,576	1,190,162	2,671,738

<u>FY03-04 HOME Annual Action Plan Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Housing Development, Preservation, Home Ownership		1,343,418	1,236,640	2,580,058
Affordable Housing Direct Loans		1,035,068	1,236,640	2,271,708
CHDO Set-Aside (15%)		207,236		207,236
CHDO Operating (5%)		69,079		69,079
Tenant Based Rental Assistance (TBRA)		32,035		32,035
Administration (10%)		138,158	-46,478	91,680
HOME Program Administration		138,158	-46,478	91,680
HOME TOTAL		1,481,576	1,190,162	2,671,738

<u>FY03-04 ESG Funding Amendment</u>	<u>Prior Year Funding</u>	<u>FY03-04 Plan</u>	<u>Changes</u>	<u>Amended Total</u>
Entitlement		86,000		86,000
Reprogram		2,261		2,261
ESG TOTAL		88,261		88,261

FY03-04 ESG Annual Action Plan
Amendment

Public Services		88,261	0	88,261
Community Housing & Shelter "Emergency Shelter"		26,400		26,400
CHSS "Pathway Transitional Living Program"		12,200		12,200
CHSS "Hutton House"		18,000		18,000
Interfaith Ministry "Redwood Family Center"			18,011	18,011
Children's Crisis Center "Cricket's House"		13,650		13,650
ESG Unobligated Public Service Funds		18,011	-18,011	0
ESG TOTAL		88,261	0	88,261

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-655**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL
OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD
ANNUAL ACTION PLAN.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 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 re-allocation of operating budget funds, and

WHEREAS, re-allocation of these funds is more fully described on **Exhibit "A"**, attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, 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 2003-2004 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 Annual Operating Budget is hereby amended to reallocate the Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Shelter Grant (ESG) as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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FY03-04 Operating Budget Adjustments for the HUD Annual Action Plan

1)	Appropriation	Salary & Wages, Part-time	1130	320	3252	0140	3250A	\$41,600	-\$10,400	\$31,200
	Appropriation	Benefits Adjustment	1130	320	3252	0191	3250A	\$8,000	-\$2,086	\$5,914
	Appropriation	Printing and Binding	1130	320	3252	0205	3250C	\$3,500	-\$1,000	\$2,500
	Appropriation	Services, Professional & Other	1130	320	3252	0235	3250C	\$20,000	\$5,000	\$25,000
	Appropriation	Miscellaneous Services	1130	320	3252	0260	3250C	\$11,514	-\$11,514	\$0
									-\$20,000	
	Revenue	CDBG Entitlement	1130	320	3252	3513	na	\$650,320	-\$20,000	\$630,320
	Justification:	Adjustments reflect the budget for the Analysis of Impediments to Fair Housing, and a decrease in the amount of funding budgeted for administration of the CDBG Program, due to changes in staff functions brought on by the retirement of the Housing Programs Supervisor								
2)	Appropriation	Services City Forces	1130	320	3254	0255	3250C	\$251,873	\$3,000	\$254,873
	Appropriation	CDBG - Direct Grants	1130	320	3254	0496	3250C	\$468,500	\$68,573	\$537,073
	Appropriation	Direct Loans	1130	320	3254	0497	3250C	\$300,000	\$120,000	\$420,000
									\$191,573	
	Revenue	CDBG Entitlement	1130	320	3254	3513	na	\$1,301,251	\$191,573	\$1,492,824
	Justification:	Adjustments reflect an increase of \$3,000 for property agent, a net adjustment of 68,573 in public service activities and \$120,000 for Down Payment Assistance Program (DPAP).								
3)	Appropriation	Construction	1130	320	3212	6040	3250C	\$91,000	\$74,000	\$165,000
	Revenue	CDBG Carryover	1130	320	3212	3511	na	\$0	\$76,573	\$76,573
	Revenue	CDBG Entitlement	1130	320	3212	3513	na	\$143,920	-\$102,573	\$41,347
	Revenue	Direct Loan Principal (Program Income)	1130	320	3212	6301	na	\$0	\$100,000	\$100,000
									\$74,000	
	Justification:	Adjustments reflect an increase of \$109,000 for the ADA Improvements Curb Ramps CIP project. Amended project total amount is \$252,920.								
4)	Appropriation	Construction	1130	320	3221	6040	3250C	\$195,000	\$136,000	\$331,000
	Revenue	CDBG Carryover	1130	320	3221	3511	na	\$0	\$336,000	\$336,000
	Revenue	Direct Loan Principal (Program Income)	1130	320	3221	6301	na	\$300,000	-\$200,000	\$100,000
									\$136,000	
	Justification:	Adjustments reflect an increase of \$170,000 for the Street Paving in Low Income Areas CIP project. Amended project total amount is \$478,400								
		CDBG Total Appropriation						\$1,390,987	\$381,573	\$1,772,560
		CDBG Total Revenue						\$2,395,491	\$381,573	\$2,777,064
5)	Appropriation	Direct Loans	1170	320	3259	0497	3259C	\$1,035,068	\$1,236,640	\$2,271,708
	Revenue	HOME Carryover	1170	320	3259	3512	na	\$0	\$1,236,640	\$1,236,640
	Justification:	Adjustment reflect HOME carryover money from FY98-99 and FY99-00 of \$1,236,640 for Affordable Housing projects. Amended total amount is \$2,271,708.								
		HOME Total Appropriation						\$1,035,068	\$1,236,640	\$2,271,708
		HOME Total Revenue						\$0	\$1,236,640	\$1,236,640

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-656**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 FUNDING FOR
THE CAPITAL IMPROVEMENT BUDGET TO REFLECT APPROVED
CHANGES TO THE HUD ANNUAL ACTION PLAN.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that additional revenue from prior years' carryover Community Development Block Grant (CDBG) program funds will be available for capital improvement projects, and

WHEREAS, staff recommends that the available funding be programmed for new and existing projects, and

WHEREAS, programming of these funds is more fully described on Exhibit "A", attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve the amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, 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 2003-2004 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 funding for the Capital Improvement Plan Budgets are hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on **Exhibit "A"** attached hereto and incorporated herein by reference.

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 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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FY03-04 Capital Improvement Projects Budget Adjustments for the HUD Annual Action Plan

1)	Appropriation	Construction	6700	310	N440	6040	N440	\$223,000	\$50,000	\$273,000
	Revenue	Transfer in from Fund 1130	6700	700	N440	9113	na	\$307,000	\$50,000	\$357,000
	Appropriation	Transfer out to Fund 6700	1130	700	N440	7670	N440G	\$0	\$50,000	\$50,000
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$50,000	\$50,000
	Justification:	Increase funding of \$50,000 for construction of the elevator project at the Centre Plaza (N440). Amended project total amount is \$357,000.								
2)	Appropriation	Engineering/Design/Admin	2300	310	N992	6010	N992	\$41,750	\$20,000	\$61,750
	Appropriation	Construction	2300	310	N992	6040	N992	\$157,750	\$20,000	\$177,750
	Revenue	Transfer in from Fund 1130	2300	700	N992	9113	na	\$241,000	\$40,000	\$281,000
	Appropriation	Transfer out to Fund 2300	1130	700	N992	7230	N992G	\$0	\$40,000	\$40,000
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$40,000	\$40,000
	Justification:	Increase funding of \$40,000 for ADA improvements at eh King Kennedy Center (N992). Amended project total amount is \$281,000.								
3)	Appropriation	Construction	2300	310	Q245	6040	Q245	\$273,000	\$5,100	\$278,100
	Revenue	Transfer in from Fund 1130	2300	700	Q245	9113	na	\$372,000	\$5,100	\$377,100
	Appropriation	Transfer out to Fund 2300	1130	700	Q245	7230	Q245G	\$0	\$5,100	\$5,100
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$5,100	\$5,100
	Justification:	Increase funding of \$5,100 for street paving for the Hillside Drive - Orville Wright Park Project (Q245). Amended project total amount is \$397,100.								
4)	Appropriation	Construction	2300	310	Q240	6040	Q240	\$96,725	\$200,000	\$296,725
	Revenue	Transfer in from Fund 1130	2300	700	Q240	9113	na	\$0	\$200,000	\$200,000
	Appropriation	Transfer out to Fund 2300	1130	700	Q240	7230	Q240G	\$0	\$200,000	\$200,000
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$200,000	\$200,000
	Justification:	Increase funding of \$200,000 for street paving for the Conant/Rumble Side Walk Improvement Project (Q240). With funding of \$150,000 from an HUD Economic Development Initiative (EDI) Grant; the amended project total amount is \$350,000.								
5)	Appropriation	Engineering/Design/Admin	2300	310	Axxx	6010	Axxx	\$0	\$55,000	\$55,000
	Revenue	Transfer in from Fund 1130	2300	700	Axxx	9113	na	\$0	\$55,000	\$55,000
	Appropriation	Transfer out to Fund 2300	1130	700	Axxx	7230	Axxx	\$0	\$55,000	\$55,000
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$55,000	\$55,000
	Justification:	New CIP Project: Hillside Drive Improvement - Kerr Avenue to South Santa Cruz. The \$55,000 in funding will be used to develop the construction documents and associated environmental documentation to improve Hillside Drive from the intersection of Kerr Avenue to the intersection of South Santa Cruz. The improvements to this section of Hillside Drive will include street paving, curb, gutter, sidewalk, retaining walls, storm drainage, and post and cable barrier fence along the south side of the street. Future funding will provide for the construction of these planned improvements.								

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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FY03-04 Capital Improvement Projects Budget Adjustments for the HUD Annual Action Plan

6)	Appropriation	Engineering/Design/Admin	2300	310	Axxx	6010	Axxx	\$0	\$50,000	\$50,000
	Appropriation	Construction	2300	310	Axxx	6040	Axxx	\$0	\$255,752	\$255,752
	Revenue	Transfer in from Fund 1130	2300	700	Axxx	9113	na	\$0	\$305,752	\$305,752
	Appropriation	Transfer out to Fund 2300	1130	700	Axxx	7230	Axxx	\$0	\$305,752	\$305,752
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$305,752	\$305,752
	Justification:	New CIP Project: Social Security Building Retrofit.								
		Funds will be used to renovate the existing structure located at 12th and M Streets, if the City is the successful applicant for this surplus federal property. It is estimated that the building will need a new roof, upgrades to the electrical system, as well as renovations to the interior consistent with its proposed use. The proposed use is a centralized location for homeless adults, families and children to get access to needed resources. An example of the proposed services are: Mental Health Counseling and Referral, Housing Resources (motel vouchers, information on emergency, transitional and long term housing programs, housing counseling), Fair Housing Counseling, Referral to Food Banks and meal programs, Information and Referral on physical health care. Many current non-profits will be moving into this One-Stop Center.								
7)	Appropriation	Construction	1300	700	M163	6040	M163	\$1,117,680	\$166,485	\$1,284,165
	Appropriation	CDBG Contingency Reserve	1130	800	M163	8003	1130R		-\$166,485	
	Appropriation	Transfer out to Fund 1300	1130	700	M163	7130	M163G		-\$166,485	
	Revenue	Transfer in from Fund 1130	1300	700	M163	9113	na	\$121,515	\$166,485	\$288,000
	Justification:	Reallocate revenue and appropriation for the Neighborhood Center at Marshall Park (M163).								
		This project was reduced by \$166,485 upon receipt of the Jobs Housing Balance Grant from the State of California in October 2003. However, as stated in the HUD 2003-2004 Annual Action Plan Amendment, staff feel it would be most prudent to leave that funding in the project for the time being, until complete construction costs for the project are known.								
		CDBG Total Appropriation						\$695,500	\$655,852	\$790,600
		CDBG Total Revenue						\$920,000	\$655,852	\$1,015,100

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-657**

**A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL
OPERATING BUDGET AND CAPITAL IMPROVEMENT BUDGET TO
REFLECT REVENUES AND APPROPRIATIONS AS ADOPTED.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that some adjustments need to be made in order to align the City's budget to the HUD financial system, and

WHEREAS, these changes are shown on **Exhibit "A"**, attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Type of Account	Description	Fund	Agency	Orgn	Object/ Revenue	App Unit	Current Budget (\$)	Adjustment Amount (\$)	Revised Budget (\$)
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FY03-04 Operating Budget Adjustments for HUD Funds

A)	Revenue	CDBG Carryover	1130	320	3210	3511	na	\$0	\$28,987	\$28,987
	Revenue	CDBG Entitlement	1130	320	3210	3513	na	\$28,987	-\$28,987	\$0
	Justification:	Revenue source for the FY02-03 ADA Curb Ramps should be CDBG Carryover.								
B)	Appropriation	ADA Signal Devices	1130	320	3211	all	3265C	\$50,000	(this item for info only)	
	Revenue	Fund Balance Reserve	1130	800	3211	8999	na		\$50,000	
	Justification:	Identify funding source to align with appropriation; revenue source for the ADA Signal Devices is 02-03 General Fund transfer in FY02-03.								
C)	Revenue	CDBG Carryover	1130	320	3220	3511	na	\$0	\$50,000	\$50,000
	Revenue	CDBG Entitlement	1130	320	3220	3513	na	\$50,000	-\$50,000	\$0
	Justification:	Revenue source for the FY02-03 Robertson Road Shade Structure should be CDBG Carryover.								
D)	Appropriation	Property Acquisition	1130	320	3254	0507	3250C	\$2,883	(this item for info only)	
	Appropriation	Homeless Facility	1130	320	3254	0511	3250C	\$150,000	(this item for info only)	
	Appropriation	King Kennedy Expansion	1130	320	3254	0506	3250C	\$0	\$50,000	\$50,000
	Revenue	CDBG Carryover	1130	320	3254	3511	na	\$0	\$202,883	\$202,883
	Justification:	Appropriate budget and revenue of \$50,000 for King Kennedy Expansion from FY02-03 to FY03-04, Identify funding source to align with appropriation of \$152,883 from FY02-03 to FY03-04. (\$2,883 for Property Acquisition and \$150,000 for Homeless Facility.)								
E)	Appropriation	Direct Loans	1140	320	3265	0497	3265C	\$16,853	(this item for info only)	
	Revenue	Fund Balance Reserve	1140	800	3265	8999	na	\$0	\$16,853	\$16,853
	Appropriation	Contingency	1140	800	8000	8003	na	-\$16,853	\$16,853	\$0
	Justification:	Identify funding source to align with appropriation.								
F)	Appropriation	Revolving Loan Fund	1150	320	3266	all		\$1,200,000	(this item for info only)	
	Revenue	Fund Balance Reserve	1150	800	3266	8999	na		\$1,200,000	
	Justification:	Identify funding source to align with appropriation.								

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-658**

A RESOLUTION AUTHORIZING STAFF TO SOLICIT A REQUEST FOR PROPOSALS IN AN AMOUNT UP TO \$69,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS TO PROVIDE WINTER SHELTER FOR HOMELESS INDIVIDUALS AND FAMILIES.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, these funds may be used to provide shelter for homeless individuals and families, and

WHEREAS, funding for this project in the amount of \$69,000 is included in the proposed amendments to the City's Annual Action Plan to be submitted to HUD, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the recommendation to solicit RFP's for emergency winter shelter for Homeless individuals and families at its December 1, 2003, meeting, and the Committee recommended that the City Council approve authorizing staff to solicit said RFP's, and

WHEREAS, by Resolution No. 2003-654, on December 11, 2003, the City Council approved the proposed amendments to the 2003-2004 Annual Action Plan, which include \$69,000 in funding for emergency winter shelter for homeless individuals and families,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit a Request for Proposals in an amount up to \$69,000 in Community Development Block Grant (CDBG) funds to provide winter shelter for homeless individuals and families.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-659**

A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION (SCH NO. 2003102055) FOR THE FAIRVIEW VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-1

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan; and

WHEREAS, on December 12, 1995, the Final Fairview Village Specific Plan Focused Environmental Impact Report was certified by the City Council of the City of Modesto (SCH# 95032006) for the Fairview Village Specific Plan; and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified an Update to the Master EIR (SCH#19990820) for the Modesto Urban Area General Plan; and

WHEREAS, the Fairview Village Community Facilities District No. 2003-1 would provide a financing mechanism for infrastructure to serve the 359-acre Fairview Village Specific Plan area as well as for the infrastructure to serve the 82-acre Galas Brothers subdivision located within the Specific Plan area; and

WHEREAS, the City of Modesto proposes to initiate the formation of the Fairview Village Community Facilities District No. 2003-1 which provides financing to construct the Water System, Wastewater System, Storm Drain System, Portion of Central Neighborhood Park (5.61 acres), and Landscaping/Median along Carpenter Road described in detail in the attached **Exhibit "A"**, hereafter referred to as "the project"; and

WHEREAS, the City of Modesto City Council finds that the proposed formation of the Fairview Village Community Facilities District No. 2003-1 is within the scope of the project considered in the Master EIR; and

WHEREAS, the City of Modesto City Council finds that no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified and that no new information, which was not known and could not have been known at the time that the Update to the Master EIR was certified as complete, has become available; 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 as being within the scope of the project; and

WHEREAS, the City's Community & Economic Development Department prepared an Initial Study leading to a Mitigated Negative Declaration (SCH No. 2003102055), attached hereto as Exhibit "A", which reviewed the proposed subsequent project pursuant to the City's 2003 General Plan Master EIR; and

WHEREAS, the Initial Study identified additional potentially significant environmental effects that were not analyzed in the Master EIR or the Focused EIR for the Fairview Village Specific Plan in terms of Water Quality, Water Supplies and Hazardous Materials; and

WHEREAS, the City of Modesto consulted with various state, and local agencies and received input on the proposed Mitigated Negative Declaration and Initial Study; and

WHEREAS, in response to the input received, revisions were made to mitigation measures to clarify or to make more effective identified mitigation measures pursuant to CEQA Guidelines Section 15073.5 (c); and

WHEREAS, Public Resources Code Section 21175.5 permits the adoption of a Mitigated Negative Declaration in this circumstance; and

WHEREAS, feasible mitigation measures were incorporated into the proposed project to revise the project before the Initial Study/Mitigated Negative Declaration was released for public review in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur; and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA No. C&ED 2003-86, determined that a Mitigated Negative Declaration should be adopted for the proposed project under the General Plan Master Environmental Impact Report (SCH No. 19990820), and the Fairview Village Focused EIR (SCH No. 95032006); and

WHEREAS, the Draft Mitigated Negative Declaration and Initial Study (SCH No. 2003102055) was released for public review and comment for the required 30-day period ending on November 12, 2003; and

WHEREAS, the City of Modesto Engineering & Transportation Department and Operations and Maintenance Department have reviewed the proposed infrastructure contained in the project, as well as the potential water supply, water well, water quality and hazardous materials impacts and the mitigation measures proposed to address those impacts and have found that the proposed infrastructure is appropriate and sufficient and that the proposed mitigation measures will reduce the potential impacts to levels required by applicable legal standards; and

WHEREAS, the Final Mitigated Negative Declaration (SCH No. 2003102055), incorporates all comments received during the circulation period and response to comments; and

WHEREAS, in response to those comments, no new unavoidable significant effect was identified and mitigation measures or project revisions were required to be added in order to reduce potential effects to less than significance on the Draft Mitigated Negative Declaration and Initial Study; and

WHEREAS, further planning studies and environmental review will be required before other areas may develop or annex to the CFD; and

WHEREAS, responses to comments received during the circulation period and a notice of public hearing for adoption, were distributed to commenting agencies for the required ten-day period prior to the public hearing for adoption; and

WHEREAS, the Initial Study/Mitigated Negative Declaration EA/C&ED 2003-86 (SCH No. 2003102055) was considered by the Modesto City Council at a duly noticed public hearing which was held on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared for the proposed Project, a copy of which is on file with the City Clerk and incorporated herein by reference, and based on the substantial evidence included in said Initial Study and the whole record of this proceeding makes the following findings:

1. The proposed formation of the Fairview Village Community Facilities District No. 2003-1 is within the scope of the project considered in the Master EIR.
2. That no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified and that no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
3. The Initial Study/Mitigated Negative Declaration (EA C&ED No. 2003-86, attached as Exhibit "A") prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional potentially significant

environmental effects that were not analyzed in the General Plan Master EIR. These additional significant effects are potential impacts to Water Quality, Water Supplies and Hazardous Materials.

4. Feasible mitigation measures were incorporated to revise the subsequent project before the Negative Declaration and Initial Study were released for public review in order to avoid or mitigate the effects to a point where clearly no significant effects on the environment will occur. These measures are within the jurisdiction of the City of Modesto to implement and will be effective to reduce the identified potentially significant impacts to a less-than-significant level.
5. All applicable mitigation measures adopted in certifying that the Master EIR, and the Focused EIR remain feasible, within the jurisdiction of the City of Modesto to implement, and effective to reduce the identified potentially significant impacts to a less-than-significant level. These measures are made conditions of approval for the proposed subsequent project.
6. There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have an unavoidable significant effect on the environment (CEQA Section 21064.5(2)).
7. Based on the previously certified Master EIR and Focused EIR, an Initial Study/Mitigated Negative Declaration is the appropriate document under CEQA in this circumstance.
8. The changes and additions to the proposed project and the Mitigated Negative Declaration/Initial Study do not constitute “significant new

information” within the meaning of CEQA, and therefore recirculation for additional public review and comment is not required.

9. Based on the above referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted for the proposed project pursuant to CEQA Section 21157.5 et seq.
10. Findings 1 - 9 above provide the substantial evidence to support the certification and adoption of the Initial Study/Mitigated Negative Declaration and City Council finds that the document reflects the independent judgment of the lead agency.
11. As required by CEQA Section 21081.6 et seq., a mitigation monitoring program will be adopted by incorporating the mitigation measures from the Initial Study/Mitigated Negative Declaration and all applicable measures from the Master EIR and Focused EIR into the project.
12. The foregoing findings are based on the whole record of this proceeding before the City of Modesto City Council.

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 the project. 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.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department 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 of the City of Modesto held on December 11, 2003, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: None

ATTEST Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Exhibit A
Mitigated Negative Declaration for the
Fairview Village Community Facilities District No. 2003-01

CITY of MODESTO

INITIAL STUDY AND FINDINGS MITIGATED NEGATIVE DECLARATION

**FOR A PROPOSED SUBSEQUENT PROJECT
TO MASTER EIR**

**PROPOSED FAIRVIEW VILLAGE
COMMUNITY FACILITIES DISTRICT NO. 2003-1**

**DECEMBER 2003
STATE CLEARINGHOUSE NO. 2003102055**

**INITIAL STUDY AND FINDINGS
DRAFT MITIGATED NEGATIVE DECLARATION
FOR A PROPOSED SUBSEQUENT PROJECT TO THE GENERAL PLAN
MASTER EIR AND THE FAIRVIEW VILLAGE FOCUSED EIR**

**PROPOSED FAIRVIEW VILLAGE COMMUNITY FACILITIES DISTRICT
NO. 2003-1**

EA C&ED – 2003 -86

1. Purpose of Initial Study:

This Initial Study provides review of a project under the City's General Plan Master EIR (SCH# 1999082041) and the Fairview Village Focused EIR (SCH# 95032006). The project is a proposed formation of a Community Facilities District to provide a financing mechanism for the entire Fairview Village Specific Plan area and, specifically, to fund the infrastructure and maintenance to serve the Galas Brothers Vesting Tentative Subdivision. This Initial Study will review the project pursuant to CEQA Sections 21157.1 and 21157.5.

CEQA Section 21157.5 requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

- (1) An Initial Study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.
- (2) Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The proposed Fairview Village Community Facilities District and its facilities would be located in the Fairview Village Comprehensive Planning District, an area which was analyzed in the General Plan Master EIR (MEIR), and the Fairview Village Specific Plan Focused EIR and are currently contained in the General Plan. This initial study will determine if there would be new or potentially significant effects from the project, and if so, whether mitigation or alternatives can be provided to avoid or reduce the effects to a level of insignificance.

This Initial Study/Mitigated Negative Declaration includes the results of a 30-day Public Review from circulation of the Draft Mitigated Negative Declaration from October 13 through November 12, 2003. Eleven (11) letters of comment were received. These letters and a written response to each one are contained in Section XXII.

This Initial Study provides environmental review based on the City's General Plan Master EIR (SCH No. 19990820) and the Fairview Village Specific Plan EIR (SCH No. 95032006).

2. Project title: Fairview Village CFD No. 2003-1.

3. Lead agency name and address: City of Modesto, P.O. Box 642, Modesto, CA 95353

4. **Contact person and phone number:** Patrick Kelly, Community and Economic Development Department (209) 577-5268.
5. **Project location:** Fairview Village Specific Plan Area, Galas Brothers Subdivision, southwest Modesto Urban Area, south side of Hatch Road east of Carpenter Road (see attached Exhibit "A").
6. **Project sponsor's name and address:** City of Modesto, P.O. Box 642, Modesto CA 95353
7. **General Plan Designation:** Fairview CPD – Village Residential (VR)
8. **Zoning:** East ½ of area = SP-O, Specific Plan Overlay
West ½ of area = P-SP-O, Prezone Specific Plan Overlay

9. Project Description:

The project consist of formation of the Fairview Village Community Facilities District No. 2003-1 ("Fairview Village CFD"). The project includes the creation of a financing mechanism to fund construction of certain regional infrastructure within the Fairview Village Specific Plan area. A portion of the plan area contains the Galas Brothers Vesting Tentative Subdivision Map Units 1 &2, consisting of 81.66 acres located in the northeast portion of the Fairview Village Specific Plan ("Galas Subdivision"). Development of the Galas Subdivision includes 383 single-family residential lots, a water well, storm drainage basin, water tank, sewer outfall line and a portion of the central neighborhood park site and its related infrastructure.

The Fairview Village CFD will fund a portion of the infrastructure and its maintenance (see attached Exhibits "B" and "C"). The Galas Subdivision will be responsible for constructing a portion of this infrastructure, will be subject to the CFD tax and may be entitled to certain reimbursements for that work.

The remaining properties within the 359-acre Fairview Village Specific Plan area (listed below as Future Annexation Area) will annex to this CFD in the future, as that area develops (see attached Exhibit "D"). Further planning studies and environmental review will be required before the properties may develop or annex to the CFD."

Formation of Fairview Village CFD No. 2003-1 includes the following property shown on the "CFD Boundary Map", attached Exhibit "D":

Galas Brothers Subdivision:

Assessors Parcel No. 056-027-002, 82.61 Acres, (Norman Galas, et.al.)

Formation of the CFD also provides a financing mechanism for construction and maintenance of the infrastructure to serve the remaining properties within the 359-acre Fairview Village Specific Plan area (listed below as Future Annexation Area) which will ultimately annex to this CFD as the area develops (see attached map-Galas Brothers Subdivision and Future Annexation Area, attached *Exhibit "E"*).

Future Annexation Area:

- Assessors Parcel No. 056-027-009
- Assessors Parcel No. 056-027-010
- Assessors Parcel No. 056-028-007
- Assessors Parcel No. 056-028-008
- Assessors Parcel No. 056-028-003
- Assessors Parcel No. 056-028-014
- Assessors Parcel No. 056-028-012
- Assessors Parcel No. 056-028-010
- Assessors Parcel No. 056-028-015

The Community Facilities District will pay for the following infrastructure (and its maintenance) to serve the Galas Brothers Subdivision, as follows:

Water System:

- Water Well
- Distribution Pipe Lines
- Well-head treatment system
- Surface water supply pipe line
- Water tank and booster pumps

The Galas Brothers Subdivision will install one (1) well and associated pump and motor, chlorination facility, electrical and communication equipment, pump house, one (1) storage tank, booster pump station, well-head treatment system and backup generator. In addition, the Galas Subdivision will install a 20" diameter water line from the intersection of Hatch Road and Carpenter Road, to the storage tank site. The water system will be located at the east boundary of the subdivision on Ironside Drive. Flush water from the tank will discharge through the sanitary sewer system.

Wastewater system:

- Lift station
- Force main

The Galas Brothers Subdivision will install one (1) lift station containing two (2) interim pumps with space for an additional future pump, associated electrical and communication equipment; 8" sanitary sewer force main from the lift station to the east boundary of the subdivision on Ironside Drive, connecting to an existing 15" sub-trunk. The sanitary sewer lift station will be located immediately adjacent to the storm drain detention basin. The influent gravity lines in Salazar Circle will be sized to accommodate future flows from the Specific Plan area.

Storm Drain System

- Lift station
- Force Main to Basin
- Gravity line to outfall line

The Galas Brothers Subdivision will install one (1) lift station containing two (2) interim pumps with space for an additional future pump, associated electrical and communication equipment; 30-inch diameter trunk line from the new detention basin to Hatch Road and along Hatch Road to Ustick Road where it will connect into an existing 30-inch diameter line in Ustick Road that runs north and discharges into the Tuolumne River. Gravity lines in Salazar Circle will be sized to accommodate future flows from the Specific Plan area.

Portion of Central Neighborhood Park (5.61 acres)

- Park/Basin
- Class I Non-motorized Trail
- Lighting

The Galas Brothers Subdivision will contain a 3.2 acre open space area located adjacent to a 1.4 acre basin. There shall be a 6' decorative fence separating the basin from the open space area. There will be a walking path loop around the basin and open space area. The path will be made of concrete, five to six feet wide, with a level shoulder on either side of no less than 4 feet. The open space area will have a play area, irrigated turf, shrubs and several shade trees. There will be a drinking fountain, benches and picnic tables located in a centralized area.

The Class I Non-Motorized Trail will be located on top of the 40-foot wide sewer easement from the open space area to Hatch Road. The trail will be ten feet wide with a two-foot shoulder of decomposed granite on either side. The trail will be landscaped with several trees and plantings, with accent plantings at the intersections and entry points.

Landscaping/Median along Carpenter Road

- Parkways

The landscaping in the median and along Carpenter Road shall incorporate parkway plantings to complement the Fairview CFD facilities. This shall consist of trees with a high canopy and shrubs that have a low growth habit (2.5 feet or less in height), and groundcovers. This area shall be automatically irrigated and maintained as part of the CFD.

The Galas property is to be included in the Fairview Village CFD as required by the approved Galas Brothers Vesting Tentative Subdivision map, to pay for their share of infrastructure costs under the CFD.

Based on requirements to serve the ultimate specific plan buildout land uses, some facility oversizing will need to occur in the Galas Subdivision. Reimbursement mechanisms exist to compensate the property developers for this oversizing.

Future amendments to the adopted Specific Plan land uses or infrastructure will require separate environmental analysis and corresponding amendments to the Community Facilities District.

10. **Surrounding Land Uses:** North: Tuolumne River Riparian area and River
South: County Agricultural lands
East: Single family subdivisions, City and County
West: County Agricultural lands and disposal facility

11. **Other public agencies whose approval is required:** None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below are potentially new or additional significant impacts that were not analyzed in the certified Master EIR or Focused EIR that would be potentially affected by this project involving at least one impact that is a "Potentially Significant Impact" as indicted by the Checklists on the following pages.

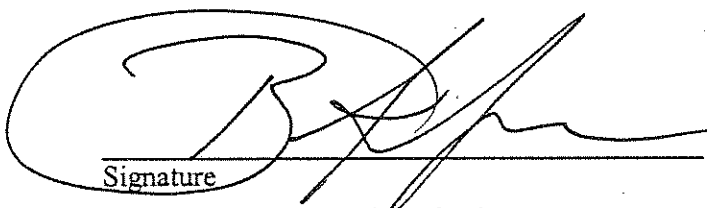
The following factors are based on Appendix G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas analyzed by the City of Modesto's General Plan Master EIR:

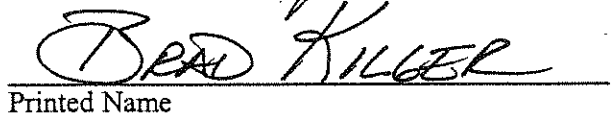
- Traffic & Circulation Loss of Wildlife/Plant Habitat Increased Demand Police
- Degradation of Air Quality Disturb Archaeological/Historic Increased Demand Fire
- Generation of Noise Drainage/Flooding /Water Quality Generation of Solid Waste
- Loss of Productive Ag Land Increased Demand Storm Drainage Generation of Hazardous Materials
- Increased Demand Water Supplies Increased Demand Parks/OpenSpace Energy
- Increased Demand Sewer Service Increased Demand Schools Landslides/Seismic Activity
- Mandatory Findings of Significance Aesthetics Land Use/Planning

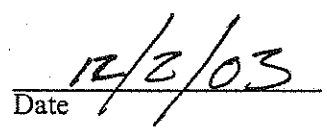
DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.


Signature


Printed Name


Date

For

EVALUATION OF ENVIRONMENTAL IMPACTS: FOR A PROPOSED SUBSEQUENT PROJECT TO MASTER EIR

The following sections evaluate the proposed subsequent project to the City's General Plan Master EIR and Fairview Village Focused EIR pursuant to CEQA Section 21157.1 (b) whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and/or the Focused EIR. And, if so make a determination pursuant to Section 21157.5 which requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

- (1) An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.
- (2) Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The analysis in this document includes the identification of project-related impacts that would be less-than-significant with mitigation incorporated. Some of those impacts are new or additional impacts not previously identified and some of those impacts were previously identified in the General Plan Master EIR (SCH No. 19990820) or Fairview Village Specific Plan Focused EIR (SCH No. 95032006). This document serves to ensure that the mitigation measures also identified in the Master EIR and/or Focused EIR are incorporated into the project to keep those impacts at a less-than-significant level.

The Determination Section XXII indicates which impacts are new or additional impacts and which impacts were previously analyzed and mitigation provided.

The following analysis is based on Appendix G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas in the City of Modesto's General Plan Master EIR:

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. <u>TRAFFIC and CIRCULATION NEEDS</u> – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR adopted for the Specific Plan, will the project result in increased impacts to:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	[]	[]	[]	[X]
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	[]	[]	[]	[X]

- 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? [] [] [] [X]
- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? [] [] [] [X]
- e) Result in inadequate emergency access? [] [] [] [X]
- f) Result in inadequate parking capacity? [] [] [] [X]
- g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? [] [] [] [X]

I. TRAFFIC AND CIRCULATION, Continued:

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Traffic and Circulation (Pages V-1-1 through V-1-33) remain valid for the reasons listed below.

Discussion:

- a) The proposed Fairview Village CFD No. 2003-1 facilities financing district would have no impact with regards to increased impacts to the City's roadway system because for the Galas Subdivision the density and intensity of the proposed development is within that assumed in the General Plan Traffic Model, the street system in the proposed Final map was reviewed and approved by City's Engineering and Transportation Department, and will be constructed to City Standards, thus the facilities to be constructed and land use are essentially consistent with those assumed in the analysis of the General Plan Master EIR and adopted Specific Plan Focused EIR. Therefore, it will not create a significant increase in traffic generation. Additionally, the development served by the CFD will contribute to the construction of Citywide facilities, such as Hatch Road, to provide capacity and level-of-service per City Standards through 2003 Capital Facilities Fees program.
- b) Because the Fairview Village CFD No. 2003-1 would not revise adopted land use, and the density of development is within the range analyzed by the General Plan Traffic Model, and the facilities to serve the Galas Brothers subdivision would be essentially consistent with the adopted Specific Plan, there are no additional traffic and circulation impacts associated with the facilities proposed for financing by the Community Facilities District No. 2003-1 beyond those already studied in the adopted Master EIR and Focused EIR. Therefore, the proposed facilities would have no impact to contributing to traffic exceeding the adopted level of service for the City's General Plan street system. Additionally, the development served by the CFD will contribute to the construction of Citywide facilities, such as Hatch Road, to provide capacity and level-of-service per City Standards through 2003 Capital Facilities Fees program.
- c) Because the proposed Fairview Village CFD No. 2003-1 facilities would not result in a significant land use change from the adopted General Plan or Fairview Village Specific Plan, there would be no impact to 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) Because the proposed Fairview Village CFD No. 2003-01 facilities would be served by essentially the same roadway system that is in the adopted General Plan and Fairview Village Specific Plan, and the street system for the Final Map of Galas Brothers Subdivision has been reviewed by the City's Engineering and Transportation Department for conformance with City's Standards, there would be no impact to Substantially increased hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses.
- e) Because the facilities to be installed and maintained by the Fairview Village CFD 2003-01 would be consistent with the facilities in the adopted Specific Plan as analyzed by the Master EIR and Focused EIR, and would be served by planned adjacent roadways in the Galas Brothers Subdivision providing direct access, there would be no impact to a result in inadequate emergency access.
- f) Because the Fairview Village CFD No. 2003-1 facilities to be constructed and the land uses it serves, specifically, the Galas Brothers subdivision, are required to meet City of Modesto parking standards there would be no impact to inadequate parking capacity.
- g) Because the Fairview Village CFD No. 2003-1 would be financing the construction of bikeways/ walkways, and facilities supporting the bus system to implement an adopted Specific Plan, there would be no conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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II. DEGRADATION OF AIR QUALITY – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:

a) Conflict with or obstruct implementation of the applicable air quality plan?	[]	[]	[]	[X]
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	[]	[]	[X]	[]
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	[]	[]	[]	[X]
d) Expose sensitive receptors to substantial pollutant concentrations?	[]	[]	[]	[X]
e) Create objectionable odors affecting a substantial number of people?	[]	[]	[]	[X]

II. DEGRADATION OF AIR QUALITY

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Increased Demand for Degradation of Air Quality (Pages V-2-1 through V-2-26) remain valid for the reasons listed below.

Discussion:

- a) Because the Fairview Village CFD No. 2003-1 and the corresponding infrastructure to serve the Galas Brothers subdivision is consistent with the adopted Specific Plan and because City of Modesto General Plan policies reflecting the Air Districts Air Quality Plan (AQ-1 through AQ-18, MEIR) will be applied Citywide and to development of the Specific Plan area to reduce emission of pollutants, and the density of development to be served is within the range analyzed by the General Plan Air Quality modeling, it would not generate significantly greater traffic or significantly increase areas of public facilities beyond that analyzed by the Master EIR, there would be no impact to conflict with or obstruct implementation of the San Joaquin Valley Unified Air Pollution Control District air quality plan. Because air quality impacts cannot be reduced to a less-than-significant level, when the Master EIR was certified, the City adopted overriding findings for air quality impacts associated with project-generated traffic. Applicable Air District project planning measures (Table 2-3 MEIR, Page 46, Focused EIR) have been applied to the project at the Specific Plan and subdivision design stage to reduce vehicle use and associated emissions.
- b) Because the proposed Fairview Village CFD No. 2003-1 facilities financing mechanism would fund facilities similar to those analyzed by the General Plan Master EIR, or Focused EIR, the project would have a less than significant impact to any air quality standard or would not contribute substantially to an existing or projected air quality violation. The primary impact would be construction-related air quality impacts which would be mitigated by application of SJVUAPCD Regulation VIII, (Fugitive Dust Rules). This impact is not a new or additional project-specific significant impact identified by this Initial Study. Rather, this is an impact identified by the Master EIR for new development and although the City has adopted overriding findings for PM10 impacts that remain significant, the following mitigation would provide project-specific reduction of impacts for PM10.

The following is an appropriate existing measure incorporated into the project from the Master EIR:

MITIGATION MEASURE- AIR QUALITY:

- 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, these 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%).

San Joaquin Valley Unified Air Pollution Control District – Regulation VIII (Fugitive Dust Rules). Full text of the measure is included in Exhibit F.

- c) Because the Fairview Village CFD No. 2003-1 facilities to be constructed (or the land-uses it would serve) would not generate significantly greater traffic than was analyzed in the Master EIR and/or the Focused EIR, there would be no impact to a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). Because the region is designated severe non-attainment for Ozone and PM10 for State Standards, and severe non-attainment for Ozone by the EPA and air quality impacts are significant and unmitigable, the City has adopted Overriding Considerations for Air Quality Impacts. However, the proposed Galas Subdivision at 4.3 dwelling units per acre is below the density and intensity assumed by the General Plan Traffic Model/Air Traffic Model of 5.1 dwelling units per acre. Thus, no contribution to net increase in emissions.
- d) Because the Fairview Village CFD No. 2003-1 would not significantly increase the number or type of facilities constructed in the adopted Specific Plan, there would be no impact to increase in exposure of sensitive receptors to substantial pollutant concentrations beyond that which was studied in the Master EIR.
- e) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be consistent with the facilities in the adopted Specific Plan, there would be no impact to creation of objectionable odors affecting a substantial number of people?

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>III. <u>NOISE</u> – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:</p>				
<p>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</p>	[]	[]	[X]	[]
<p>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</p>	[]	[]	[X]	[]
<p>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</p>	[]	[]	[]	[X]
<p>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</p>	[]	[]	[X]	[]
<p>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</p>	[]	[]	[]	[X]
<p>f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</p>	[]	[]	[]	[X]

III. NOISE

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Noise (Pages V-3-1 through V-3-22) remain valid for the reasons listed below.

Discussion:

- a) Because the facilities constructed and corresponding land uses served by the proposed Fairview Village CFD No. 2003-1, are essentially the same as the adopted Specific Plan that was analyzed by the Focused EIR, and the CPD analyzed by the General Plan Master EIR, impacts would be similar. The Focused EIR identified that development of the Specific Plan area, which includes the infrastructure, would result in less than significant impacts to exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Operation of proposed facilities such as pump stations, well sites, or booster pumps will not exceed City Noise Standards for residential areas for exterior or interior levels. These facilities are designed for quiet operations to be within CCR Title 24 Standards.

Although the Focused EIR identified noise impacts to school facilities within the Fairview Village specific plan area, neither the existing elementary school on Whitmore Avenue, or the future elementary school to be constructed would be affected by construction of the Fairview Village CFD No. 2003-1 facilities.

The Focused EIR identified the significant noise impacts that would be mitigated: "No significant effects outside of those identified in the General Plan Master EIR are anticipated. Construction-related, transportation-related, and commercial noise impacts can be mitigated in most instances through implementation of the measures identified in the General Plan Master EIR."

Incorporation of the following existing measure from the Master EIR would reduce impacts:

MITIGATION MEASURE – NOISE 1:

Modesto Noise Ordinance. 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.):

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.

Policy VII-G.3[a] 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].

- b) Because the proposed Fairview Village CFD No. 2003-1 facilities to be constructed, including water well, tank, and pump sites are designed to be compatible with residential neighborhoods, their construction and/or operation would result in less than significant impact to exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
- c) Because the proposed facilities that would be constructed by the Fairview Village CFD No. 2003-1 including pumps, lift stations, water wells, tanks and their associated facilities are designed to be compatible with residential neighborhoods, their development would result in no impact to substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- d) Because development of the proposed facilities by the Fairview Village CFD No. 2003-1, would cause temporary construction-related noise impacts, that can be reduced or avoided by the application of existing mitigation measures from the Master EIR, Measures N-4, 5, 6 & 7, Pages V-3-10, V-3-11 and V-3-12, Master EIR, would result in a less than significant impact to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Mitigation measures to be applied to the project from the Master EIR, that are cited in item a) above will mitigate these temporary construction-related impacts to less than significant.

The Focused EIR identified the following mitigation measure to reduce noise impacts to schools within the Plan Area:

MITIGATION MEASURE – NOISE 2:

Prior to construction activities in the vicinity of the existing school and the proposed new elementary school, the project applicant shall develop a schedule of construction activities during school hours acceptable to the Modesto City School District to reduce construction noise impacts to schools.

- e) Because the facilities proposed to be financed and constructed by Fairview Village CFD No. 2003-1 would be located in the Planned Urbanizing area (future growth area) of the General Plan, outside the noise contour of the Airport, that were analyzed in the General Plan Master EIR, their development would result in no impact to a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would not expose people residing or working in the project area to excessive noise levels.
- f) Because the planned public facilities that would be financed and constructed by the Fairview Village CFD No. 2003-1 would be located in the Planned Urbanizing area (future growth area) of the General Plan, where there are no private airstrips, and these facilities were analyzed in the General Plan Master EIR, their development would result in no impact to a project within the vicinity of a private airstrip, nor would the project expose people residing or working in the project area to excessive noise levels.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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IV. LOSS OF PRODUCTIVE AGRICULTURAL LAND -

Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:

- | | | | | |
|--|-----|-----|-----|-------|
| 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? | [] | [] | [] | [X] |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | [] | [] | [] | [X] |
| c) 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] |

IV. LOSS OF PRODUCTIVE AGRICULTURAL LAND

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (Pages V-4-1 through V-4-12) remain valid for the reasons listed below.

Discussion:

- a) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 within the Fairview Specific Plan portion of the Planned Urbanizing Area of the adopted General Plan were covered by the General Plan Master EIR (MEIR), there would be no impact to conversion of 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. City of Modesto policies requiring compact development have been applied to the Specific Plan and its subsequent development to minimize impacts. When certifying the Master EIR the City has adopted findings of overriding considerations regarding the conversion of Agricultural lands.
- b) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the proposed Facilities to be constructed by the proposed Fairview Village No. 2003-1 would be located in the adopted Fairview Village Specific Plan area within the Planned Urbanizing Area of the adopted General Plan covered by the General Plan Master EIR (MEIR), there would be no impact to conflicts with existing zoning for agricultural use, or a Williamson Act contract. Although construction of the facilities along with development of the subdivision would remove agricultural land from production, operation of these CFD facilities would have no impact on agricultural uses. Appropriate overriding findings were adopted regarding conversion of productive agricultural lands with the adoption of the Master EIR.
- c) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the facilities to be constructed by the Fairview Village CFD NO. 2003-1 would be located on approved subdivision site within the adopted Fairview Village Specific Plan area of the Planned Urbanizing Area of the adopted General Plan covered by the General Plan Master EIR (MEIR), there would be no impact to involvement of other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. City of Modesto policies requiring compact development have been applied to the Specific Plan and its subsequent development to minimize impacts. When certifying the Master EIR the City has adopted findings of overriding considerations regarding the conversion of Agricultural lands.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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V. INCREASED DEMAND FOR WATER SUPPLIES –

Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:

- | | | | | |
|---|-----|-------|-------|-----|
| a) Are there sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | [] | [] | [X] | [] |
| b) Require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect? | [] | [X] | [] | [] |

V. INCREASED DEMAND FOR WATER SUPPLIES

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) remain valid for the reasons listed below.

Discussion:

- a) Because the water supply facilities proposed to be constructed by the Fairview Village CFD No. 2003-1 would be part of the City’s conjunctive use system, where groundwater would be blended with surface water supplies through the use of a well and storage tank, the proposed Fairview Village CFD No. 2003-1 will result in less than significant impact to water supplies available to serve the project from existing entitlements and resources, and no new expanded entitlements would be needed.
- b) Because the water supply facilities proposed to be constructed by the Fairview Village CFD No. 2003-1 and the demand created by the land uses it would serve would exceed the available potable surface and groundwater supplies (with treatment), there will be a need to construct new treatment facilities (i.e storage tanks and treatment facilities). Therefore, the proposed Fairview Village CFD No. 2003-1 will have a less than significant impact with mitigation incorporated. A storage tank and wellhead treatment system will be required as a mitigation measures.

MITIGATION MEASURE – WATER SUPPLIES :

The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of less than significant impact with mitigation incorporated any potential impacts for effects to Water Supplies:

The project requires the installation of a 500,000 gallon storage tank. Measures to mitigate water quality effects are outlined in Section IX – Flooding and Water Quality.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. <u>INCREASED DEMAND FOR SANITARY SEWER SERVICE</u> – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:				
a) 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]
b) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	[]	[]	[]	[X]
c) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect?	[]	[]	[]	[X]

VI. INCREASED DEMAND FOR SANITARY SEWER SERVICE

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (Pages V-8-1 through V-8-21) remain valid for the reasons listed below.

Discussion:

- a) The proposed facilities to be constructed by the Fairview Village CFD No. 2003-1 (portion of neighborhood park, drainage basin, water tank, pump stations, etc.) and the land uses it would serve, will have no impact to increased demand for sanitary sewer service over what was assumed in the MEIR because Engineering and Transportation Department, Capital Facilities Planning Division has determined that the existing nearby Ustick trunk line has available capacity to serve the development proposed by the Galas Brothers subdivision. Therefore, project development would result in a determination by the wastewater treatment provider which serves or may serve the project (City of Modesto) that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- b) The facilities to be constructed (portion of neighborhood park, drainage basin, water tank, pump stations, etc.) and the development which Fairview Village CFD No. 2003-1 would serve would not result in exceedence of the RWQCB standards because sufficient capacity exists in the City's wastewater system to collect and process the projected wastewater demand. The facilities, and the land uses to be served with development of the Galas Brothers subdivision facilities were analyzed as part of the assumed buildout of the Fairview Village CPD in the MEIR. Therefore, the Galas Brothers subdivision would not generate increased demand for sanitary sewer services over what was assumed in the Master EIR. Thus, there would be no impact to wastewater treatment requirements of the applicable Regional Water Quality Control Board.

- c) Because the facilities (portion of neighborhood park, drainage basin, water tank, pump stations, pipelines, etc.) and the land uses which it would serve in the Fairview Village CFD No. 2003-1 have already been studied in the MEIR, the Master EIR assumed 5.1 dwelling units/acre and the Galas Subdivision is 4.3 dwelling units/acre, there would be no increased demand for sanitary sewer service above that analyzed by the MEIR. The Wastewater Treatment Division of the Operations and Maintenance Department has indicated there is available treatment plant capacity for the Galas Subdivision. In addition, there is a current project in the proposal for the design services stage that will assist in retaining existing disposal capacity under adverse seasonal discharge conditions. Therefore, the project would result in no impact to a requirement for or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:

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?	[]	[X]	[]	[]
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	[]	[]	[]	[X]
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, marsh, vernal pool, coastal, etc.) through direct removal, filing, hydrological interruption, or other means?	[]	[]	[]	[X]
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?	[]	[]	[]	[X]
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	[]	[]	[]	[X]

- 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? [] [] [] [X]

VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

The Existing Conditions, Impact Analysis, and Mitigation Measures listed in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR (pages V-7-1 through V-7-29) are still valid for the reasons discussed below.

Discussion:

- a) The Galas Brothers Vesting Tentative Subdivision map, covered by the Fairview Village CFD No. 2003-1, is outside of the potential resource study area depicted on the Riparian Corridor diagram Figure V-7-1a of the Master EIR. The 1995 Focused EIR analysis (page 64) reviewed the project site, MEIR mitigation measures, and the Special Status Species Potentially Occurring on the Site and indicated that:

“...habitat found on the project site has a low potential to provide habitat for resident or transient “special status” animals. Information to date does not indicate the potential for special-status species to occur on the site.”

The 1995 correspondence from CADFG indicates no special status species would be located on-site.

However, the Focused EIR relies on implementation of the Master EIR mitigation measures to reduce impacts to loss of Sensitive Wildlife and Plant Habitat. The Master EIR (page V-7-19) and Focused EIR (page 62) require a site specific survey to determine if special species are present on the site and if there would be any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR).

Therefore, with application of the Focused EIR Mitigation, the project would have less than significant effect with mitigation incorporated to 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.

Accomplishing the following mitigation measure from the Master EIR prior to construction would reduce or avoid any identified effects:

MITIGATION MEASURE – WILDLIFE AND PLANT HABITAT:

Policy VII-E.3[a] For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure 7-1 in the Final Master EIR. (Riparian Corridor Diagram)

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by DFG and USFWS. The significant results of such surveys should be recorded onto the City’s existing biological resources map for future planning purposes.

Policy VII-E.3[b] All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to the long-term conservation of the species and ecosystems on which they depend.

Policy VII-E.3[c] Where formally listed species are determined present, consultation shall be carried out with the DFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where candidate or other special status category of species are involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

- b) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General Plan Master EIR Figure V-7-1a, construction of the proposed CFD facilities would not likely result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. In addition, a site-specific survey is required (see item a)above) prior to construction.
- c) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General Plan Master EIR Figure V-7-1a, construction of the proposed CFD facilities would not likely result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR) and/or Focused EIR. Therefore, the proposal would have no impact to a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- d) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General Plan Master EIR Figure V-7-1a, construction of the proposed CFD facilities would not likely result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to 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? In addition, a site-specific survey is required (see item a) above) prior to construction.
- e) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General Plan Master EIR Figure V-7-1a, construction of the proposed CFD facilities would not likely result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- f) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General Plan Master EIR Figure V-7-1a, construction of the proposed CFD facilities would not likely result in any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan

Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to Conflict with the provisions of an adopted Habitat Conversation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. <u>DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES</u> – Compared to the Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts to:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	[]	[X]	[]	[]
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	[]	[X]	[]	[]
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	[]	[X]	[]	[]
d) Disturb any human remains, including those interred outside of formal cemeteries?	[]	[X]	[]	[]

VIII. DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) remain valid for the reasons listed below.

Discussion:

- a) Because the proposed facilities to be financed by the Fairview Village CFD No. 2003-1 are located within a “potential archaeological resource study area” - defined on Figure V-8-2 of the adopted Master EIR, the proposed amendment could potentially result in an effect on loss of an archaeological or historic resource that was not already analyzed by the General Plan Master EIR (MEIR). Therefore the proposal would have less than significant impact with mitigation incorporated to causing a substantial adverse change in the significance of a historical resource as defined in CEQA §15064.5.

The Focused EIR Environmental Analysis (page 67) did not require and was not based on a site-specific survey. It assumed that there was a low probability of encountering resources during excavation and construction: “a records search for the area within a one-mile radius of the site was conducted at the Central California Information Center, Department of Anthropology, California State University at Stanislaus (CCIC), the results indicate that there are no recorded archaeological resources within one-mile radius of the site. The CCIC recommended a field survey be conducted by a qualified archaeologist; however, there is no evidence provided for the existence of any “important archaeological resources” on the site. Thus a preliminary surface field reconnaissance was deemed unnecessary at this time.”

Incorporate the following mitigation required by the Focused EIR, which addresses the discovery of a resource during construction, and potential effects will be reduced or avoided in that situation.

MITIGATION MEASURE- ARCHAEOLOGICAL AND HISTORIC RESOURCES:

In the event of discovery or recognition of any human remains during excavation or construction, Appendix K requires that there shall be not further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

The coroner of the County in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required, and

If remains are of Native American origin,

- a. The descendants from the deceased Native Americans have made a recommendation to the landowners or the person responsible for the excavation work, for means of retreating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or
- b. The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

Further, where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

1. The Native American Heritage Commission is unable to identify a descendant;
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

If the human remains are discovered before the City has finished the CEQA process, the City shall work with the Native American Heritage Commission and the applicant to develop an agreement for treating or disposing, with appropriate dignity, of the human remains and any associated grave goods. Action implementing such an agreement is expect from:

1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (health and Safety Code Section 7050.5).
2. The requirements of CEQA and the Coastal Act.

- b) Because the proposed facilities to be financed by the Fairview Village CFD No. 2003-1 and the land uses that it would serve are located inside of a "potential archaeological resource study area" – (defined on Figure V-8-2 of the MEIR) of the adopted General Plan Master EIR, the proposed project could potentially result in an effect on causing a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 that was not already analyzed by the General Plan Master EIR (MEIR). Therefore the proposal would have a less than significant impact with mitigation incorporated (per Item "a" above) to causing a substantial adverse change in the significance of an archaeological resource pursuant to CEQA §15064.5.

- c) Because the proposed facilities to be constructed by and the land uses to be served by Fairview Village CFD No. 2003-1 are inside of a “potential archaeological resource study area” - defined on Figure V-8-2 of the General Plan MEIR, and because mitigation is being incorporated into the project, construction of the proposed CFD facilities would have a less than significant impact with mitigation incorporated (per Item “a” above) to directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.
- d) Because the proposed Fairview Village CFD No. 2003-1 facilities would be located within a “potential archaeological resource study area”, defined on Figure V-8-2 of the General Plan MEIR, the proposed CFD could potentially result in unearthing archaeological resources that was not already identified by the General Plan Master EIR (MEIR). However, since appropriate mitigation is being incorporated into the project from the Focused EIR, the proposal would have a less than significant impact with mitigation incorporated (per Item “a” above) to Disturb any human remains, including those interred outside of formal cemeteries.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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IX. FLOODING AND WATER QUALITY – Compared to the Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts to:

a) Violate any water quality standards or waste discharge requirements.	[]	[X]	[]	[]
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be 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 which would not support existing land uses or planned uses for which permits have been granted)?	[]	[]	[]	[X]
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 which would result in substantial erosion or siltation on – or off-site?	[]	[]	[]	[X]
d) 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?	[]	[X]	[]	[]
e) Otherwise, substantially degrade water quality?	[]	[]	[X]	[]
f) 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?	[]	[]	[]	[X]

- | | | | | |
|--|-----|-----|-----|-------|
| g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | [] | [] | [] | [X] |
| h) 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? | [] | [] | [] | [X] |
| i) Inundation by seiche, tsunami, or mudflow? | [] | [] | [] | [X] |

IX. FLOODING AND WATER QUALITY

Although the proposed project could have a significant effect on water quality (item a and e), there will not be a significant effect in this case because the mitigation measures described below will be added to the project. Therefore with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates these Mitigation Measures into the project, the Existing Conditions, Impacts Analysis and Mitigation Measures contained in the Master EIR for Drainage, Flooding and Water Quality (pages IV-9-1 through IV-9-23) remain valid for the reasons discussed below.

Discussion:

- a) The proposed Fairview Village CFD No. 2003-1 facilities would have a less than significant impact with mitigation incorporated to violation of any water quality standards (with treatment) or waste discharge requirements. Potential water quality impacts exist in the area, as known by the City. Initial test borings within the project area have indicated elevated levels of contaminants. Specifically, these elevated levels of contaminants that exceed the California Water Code Title 22 drinking water standards, include nitrates, and uranium, silvex and 2,4-DB nitrates, uranium and manganese.

The Focused EIR relies on the Master EIR for water quality analysis. The Master EIR analysis (page V-10-3) states: "The Modesto urban area has some groundwater areas that experience elevated levels of salinity, hardness, nitrates, and naturally occurring uranium". However, the MEIR analysis did not specifically determine where these occurrences would be, nor does it contain specific mitigation measures to be applied for this particular impact.

The City's Engineering and Transportation Department, Capital Facilities Planning Division, has determined that based on a test hole the developer recently drilled within the Galas property the background concentrations of several constituents exceed Safe Drinking Water Act Maximum Contaminants Levels and will require various forms of treatment to ensure safe drinking water supply for the project.

The following impact analysis and mitigation was provided by the City's Engineering and Transportation Department, Capital Planning Division, in collaboration with the City's Operations and Maintenance Department, Water Division:

The test reports were prepared by the following firms submitted by Del Valle Homes to the City and on file with the Engineering and Transportation Department, Capital Planning Division:

- 1) Micro Analytical Laboratories, Inc. dated March 11, 2003, Micro Log In No. 44024, 44165, 43961 & 44077
- 2) North Coast Laboratories, Ltd., Lab Order Nos. 0303145, 0303275, 0303054 dated March 24, 2003; lab Order No. 0303276 dated April 1, 2003

- 3) JL Analytical Services, Inc. dated April 8, 2003 Lab No. 0303-00418; Lab. No. 0303-00140; 0303-00733; 0303-00222
- 4) Truesdail Laboratories, Inc., dated March 28, 2003, Laboratory No. 915267

The above subject reports indicated, among other things, the following:

IMPACT: WATER QUALITY 1

Water Quality Test Results for Nitrate:

The four samples taken from the test well, at different strata levels below grade, indicated the following nitrate concentrations:

- 84 mg/L (128 ft. – 183 ft. below grade)
- 28 mg/L (210 ft. – 267 ft. below grade)
- 58 mg/L (315 ft. – 372 ft. below grade)
- 44 mg/L (399 ft. – 456 ft. below grade)

The Maximum Contaminant Level (MCL) for nitrate is 45 mg/L. Nitrate detection is associated with runoff from fertilizer use, leaching from septic tanks or sewer pipes, and erosion of natural deposits.

MITIGATION MEASURE – WATER QUALITY 1:

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal (4) Algal Growth and Harvesting and Disposal, (5) Dual Water Supply and Blending, (6) Combinations of Ozonation, Sand Filtration, and Granular Activated Carbon Filtration, and (7) Biological Denitrification – or the functional equivalent.

Each of these various methods of treatment have been shown to reduce nitrate in water to acceptable levels. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

IMPACT – WATER QUALITY 2

Water Quality Test Results for Gross Alpha (Indicator for Uranium):

The four samples taken from the test well, at different strata levels below grade, indicated the following gross alpha concentrations:

- 19.5 pCi/L (128 ft. – 183 ft. below grade)
- 21.8 pCi/L (210 ft. – 267 ft. below grade)
- 21.9 pCi/L (315 ft. – 372 ft. below grade)
- 27.6 pCi/L (399 ft. – 456 ft. below grade)

The Maximum Contaminant Level (MCL) for gross alpha is 15 pCi/L. Gross Alpha occurs in some drinking water sources and is associated with erosion of natural deposits.

MITIGATION MEASURE – WATER QUALITY 2

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha levels – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.

IMPACT – WATER QUALITY 3

Water Quality Test Results for Arsenic:

The four samples taken from the test well, at different strata levels below grade, indicated the following arsenic concentrations:

- <3 ug/L (128 ft. – 183 ft. below grade)
- 6 ug/L (210 ft. – 267 ft. below grade)
- <3 ug/L (315 ft. – 372 ft. below grade)
- 6 ug/L (399 ft. – 456 ft. below grade)

The Maximum Contaminant Level (MCL) for Arsenic is currently 50 ug/L. The USEPA has set a future MCL for Arsenic at 10 ug/L. The State of California is currently considering adopting a more stringent standard for Arsenic which may be as low as 4 ug/L.

MITIGATION MEASURE – WATER QUALITY 3

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal, (4) Activated Alumina, Adsorption (5) Dual Water Supply and Blending, (6) Adsorption onto granular ferric hydroxide media (7) Adsorption onto granular ferric oxide media, (8) Oxidation and filtration using anthracite coal and or Greensand media and (9) Zirconium media adsorption/filtration.

Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

IMPACT – WATER QUALITY 4

Water Quality Test Results for Silvex and 2,4-DB

The four samples taken from the test well, at different strata levels below grade, indicated the following Silvex and 2,4-DB concentrations:

<u>Silvex</u>	<u>2,4-DB</u>
ND	ND (128 ft. – 183 ft. below grade)
ND	ND (210 ft. – 267 ft. below grade)
ND	ND (315 ft. – 372 ft. below grade)
1.0 ug/L	91 ug/L (399 ft. – 456 ft. below grade)

The Maximum Contaminant Level (MCL) for Silvex is 1.0 ug/L. The maximum contaminant level for 2,4-DB is 10 ug/L.

MITIGATION MEASURE – WATER QUALITY 4

Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3). Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

IMPACT – WATER QUALITY 5

Water Quality Test Results for Manganese

The four samples taken from the test well at different strata levels below grade, indicated the following Manganese concentrations:

Manganese

- 0.03 mg/L (128 ft. – 183 ft. below grade)
- 0.38 mg/L (210 ft. – 267 ft. below grade)
- 0.05 mg/L (315 ft. – 372 ft. below grade)
- 0.19 mg/L (399 ft. – 456 ft. below grade)

The Secondary Standard for Manganese is 0.05 mg/L. There are no known health effects associated with the ingestion of Manganese, however staining of plumbing fixtures may occur at concentrations above the secondary standard.

MITIGATION MEASURE – WATER QUALITY 5

Potential treatment measures include: (1) Oxidation and filtration,, (2) Reverse Osmosis (3) Greensand Filtration.

Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

- b) Because the proposed Fairview Village CFD No. 2003-1 facilities and the land uses it would serve are consistent with the adopted Specific Plan, the water supply requirements would be the same as analyzed in the Master EIR, there would be no impact to Substantial depletion of groundwater supplies or substantial interference with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.
- c) Because the Fairview Village CFD No. 2003-1, its facilities and the land uses it would serve are consistent with planned development in the Fairview Village CPD and adopted Specific Plan Area of the General Plan and the City requires new development to be served by a positive storm drainage system as described by measures SD-9 through SD-14, page V-9-5, Master EIR, there will be no impact to substantially altering the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on – or off-site.
- d) The Fairview Village CFD No. 2003-1, its facilities and the land uses it would serve, are consistent with the adopted Specific Plan, or conditions of development with the exception of the need to construct a new gravity storm drain line to provide the necessary capacity to empty the basin. The construction of this new gravity storm drain line in existing public right-of-way would not contribute substantial additional sources of polluted runoff. Therefore, the project would have a less than significant impact with mitigation incorporated. Specifically, the storm drainage basin will incorporate current City adopted stormwater quality control measures as mitigation to polluted runoff.

MITIGATION MEASURE – WATER QUALITY 6

The storm water basin shall incorporate current City adopted stormwater quality control measures described in the Guidance Manual for New Development stormwater Quality Controls measures dated January 2001.

- e) Because the Fairview Village CFD No. 2003-1 the land uses it serves and the facilities it would construct, specifically contaminant levels in the drinking water wells, were not considered in the water quality analysis of the MEIR, there is the potential for effects on water quality beyond that analyzed. However, the proposed Fairview Village CFD No. 2003-1 would have a less than significant impact with mitigation incorporated to otherwise, substantially degrading water quality. Specifically, the contaminant levels from drinking water wells, if not properly mitigated, could impact water quality. Mitigation is provided, (see also item a, above) that would ensure a Less than Significant impact:
- f) Because the Fairview Village CFD No. 2003-1, the facilities it would construct, and the residential land uses it would serve, are outside of any flood potential area as described on Master EIR Figure V-10-1b, there will be no impact to placing 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 (see Exhibit "G", 100-Year Floodway Map).
- g) Because the Fairview Village CFD No. 2003-1, its facilities that would be built and land uses it would serve, will be in a planned residential area of the Planned Urbanizing Area of the adopted General Plan, and are outside of any flood potential areas as described on Master EIR Figure V-10-1b, there will be no impact to placing within a 100-year flood hazard area structures which would impede or redirect flood flows (see Exhibit "G", 100-Year Floodway Map).
- h) Since the proposed Fairview Village CFD No. 2003-1, the facilities it would construct and the land uses it would serve are in an adopted Specific Plan residential area of the Urban Area General Plan, and are outside of any flood potential areas as described on Master EIR Figure V-10-1b, there will be no impact to exposing 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.
- i) Since the proposed Fairview Village CFD No. 2003-1, the facilities it would construct, and the land uses it would serve, would be located within an adopted Specific Plan area in planned residential areas of the adopted General Plan, there will be no impact to inundation by seiche, tsunami, or mudflow.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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X. INCREASED DEMAND FOR STORM DRAINAGE

- Compared to the Master EIR certified for the Modesto Urban Area General Plan and the certified Focused EIR, would the project result in increased impacts to:

- a) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effect? See IX(d)

[]	[]	[X]	[]
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X. INCREASED DEMAND FOR STORM DRAINAGE

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-10-1 through V-10-8) remain valid for the reasons discussed below.

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1, would finance the construction of a portion of the storm drainage basin to serve the Fairview Village Specific Plan area designed to supplement planned regional drainage basins, thus providing increased storage capacity for times of high storm events, and the City requires all new development to be served by a positive storm drainage system as described by measures SD-9 through SD-14, page v-9-5, Master EIR, and the proposal would have a less-than-significant impact to any requirements for or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effect. The facilities to be financed by the CFD would be essentially the same as described in the adopted Specific Plan with the exception that the discharge line draining to the Tuolumne River would be increased from 18 inches to 30 inches. In addition, the facility would be constructed and operated in accordance with the City's Guidance Manual for New Development, Stormwater Quality Control Measures.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XI. INCREASED DEMAND FOR PARKS AND OPEN SPACE – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

- a) Would the project 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? [] [] [] [X]
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse effect on the environment? [] [] [] [X]

XI. INCREASED DEMAND FOR PARKS AND OPEN SPACE

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Parks and Open Space (pages V-11-1 through V-11-11) remain valid for the reasons discussed below.

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1 provides for an effective increase in the amount of available neighborhood park and open space land to serve the adopted Fairview Village Specific Plan's land use with the Galas Subdivision contributing to that park land, bike path and parkways, the project would have no impact to increasing 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) Because the proposed Fairview Village CFD No. 2003-1, the facilities it would construct, includes financing the construction of a portion of the central neighborhood park for the specific plan area as well as bike path and parkways, in accordance with the City's Parks, Recreation and Neighborhoods Department criteria, there will be no impact to the requirement for the construction or expansion of recreational facilities which might have an adverse effect on the environment.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XII. INCREASED DEMAND FOR SCHOOLS –

Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for school services:	[]	[]	[]	[X]
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XII. INCREASED DEMAND FOR SCHOOLS

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Schools (pages IV-12-1 through IV-12-11) remain valid for reasons discussed below.

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1 provides financing for the construction of infrastructure (portion of neighborhood park, water tank, pump station, water well, storm drainage basin, various pipes and other related facilities, etc.) to serve residential development, not the residential development itself, and the infrastructure has no associated student generation, there would be no impact to substantial adverse physical impacts associated with the provision of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives for school services. The residential development served by the facilities would pay school district facilities fees to mitigate impacts on demand for schools pursuant to Government Code Section 53080 (page 73, Focused EIR).

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XIII. INCREASED DEMAND FOR POLICE SERVICES – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

- | | | | | |
|---|-----|-----|-----|-------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services | [] | [] | [] | [X] |
|---|-----|-----|-----|-------|

XIII. INCREASED DEMAND FOR POLICE SERVICES

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid for the reasons discussed below.

Discussion:

- a) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 (water wells, tanks, storm drain basin, portion of a neighborhood park etc.) would be designed and constructed according to City standards, there would be no unusual police demand created by their construction and operation. The residential development served by the CFD would pay City Capital Facilities Fees, which include a component for Police capital infrastructure to maintain appropriated levels of service as described by measures PS-3 through PS-8, pages V-13-3, V-13-14, Master EIR. Therefore, the project would result in no impact to substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, the need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

XIV. INCREASED DEMAND FOR FIRE SERVICES – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

- | | | | | |
|---|-----|-----|-----|-------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. | [] | [] | [] | [X] |
|---|-----|-----|-----|-------|

XIV. INCREASED DEMAND FOR FIRE SERVICES

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Increased Demand for Fire Services (pages V-14-1 through V-14-9) remain valid for the reasons discussed below.

Discussion:

- a) Because the standard nature of the public facilities to be constructed and financed by Fairview Village CFD NO. 2003-1, (parks, water wells, tanks and storm drainage basins consistent with the adopted Specific Plan) they would be designed and constructed according to City standards including review by the Fire Marshall regarding Fire Code conformance. In addition, the residential development served by the CFD would pay the City Capital Facilities Fees, which would include a component for fire capital facilities to maintain appropriate levels of service as described by mitigation measures FS-6 through FS-18, pages V-14-3 thru V-14-15, Master EIR. Therefore, the project would result in No Impact to substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XV. GENERATION OF SOLID WASTE – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

- | | | | | |
|--|-----|-----|-----|-------|
| a) Comply with federal, state, and local statutes and regulations related to solid waste? | [] | [] | [] | [X] |
| b) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | [] | [] | [] | [X] |

XV. GENERATION OF SOLID WASTE

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Generation of Solid Waste (pages V-15-1 through V-15-10) remain valid for the reasons discussed below.

Discussion:

- a) Because the Fairview Village CFD No. 2003-1 would finance the construction of standard neighborhood public facilities (water wells, pump stations, water tanks, drainage basins, parks, etc.) and they would be consistent with the analysis in adopted Specific Plan and, there would be no significant increase in generation of solid waste and therefore no impact to compliance with federal, state, and local statutes and regulations related to solid waste. (See also Section XVI Hazardous Materials, item a).)

- b) Because construction of facilities funded by Fairview Village CFD No. 2003-1 would be consistent with the adopted Specific Plan and Master EIR, there would be no significant change in the size and nature of the planned facilities (parks and drainage basins, etc.) The Master EIR analysis indicates there currently exists adequate capacity in existing Stanislaus County landfill sites to accommodate waste generation by development of the Modesto General Plan to the year 2025. It also indicates a proposed expansion of the landfill will be available beyond that date. Therefore, there would be no impact to increase in demand for service by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. (pages V-15-7 and V-15-8)

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. GENERATION OF HAZARDOUS MATERIALS				
– Compared to the Master EIR certified for the Modesto Urban Area General Plan will the project result in increased impacts to:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	[]	[X]	[]	[]
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.	[]	[]	[]	[X]
c) Emit hazardous emissions or handle hazardous with acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	[]	[X]	[]	[]
d) 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 it create a significant hazard to the public or the environment?	[]	[]	[]	[X]
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	[]	[]	[]	[X]
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	[]	[]	[]	[X]
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	[]	[]	[]	[X]

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? [] [] [] [X]

XVI. GENERATION OF HAZARDOUS MATERIALS

The proposed project could have a less than significant effect on public exposure to hazardous materials or hazardous materials within ¼ mile of a proposed school (items a and c). Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures contained in the Master EIR for Generation of Hazardous Materials (pages V-16-1 through V-16-15) remain valid for the reasons discussed below.

Discussion:

- a) The following impact analysis and mitigation is provided by the City's Operations and Maintenance Department Water Division staff in collaboration with the Engineering and Transportation Department, Capital Facilities Planning Division: The proposed Fairview Village CFD No. 2003-1 would construct some facilities that would use or generate hazardous materials that would be a very low level of hazard. The water well-head treatment facilities could include hypochlorination equipment that require the storage and operation of sodium hypochlorite (bleach) tanks. These low pressure tanks are used throughout the Modesto urban area and are very safe and pose no danger to the surrounding residential area or schools. The water well-head treatment of Ion Exchange would include the accumulation of various by-products as a result of removing them from the groundwater such as Arsenic, Uranium and Nitrate and other dissolved solids. The only waste generated by the ion exchange treatment process requiring special handling and disposal is the spent brine. Waste management companies will be used to properly and legally manage the brine transportation and disposal. The brine is expected to be characterized as "Non-Hazardous Liquid Waste" and will be managed according to DOT regulations. The wellhead treatment of reverse osmosis, electro dialysis and electro dialysis reversal would result in a water waste stream of concentrations of Arsenic, Uranium, Nitrate and Total Dissolved Solids at concentrations higher than those found in the well water. The reject stream from this process would be deposited into the sanitary sewer and treated at the waste water treatment plant. The wellhead treatment of the various adsorption media would result in an accumulation of Arsenic and certain other inorganics on the media as a result of removing them from the well water. The wellhead treatment using activated carbon would include the accumulation of organic compounds as a result of removing them from the groundwater, such as Silvex and 2,4-DB. The wellhead treatment for manganese is oxidation with sodium hypochlorite followed by settling and/or filtration using anthracite coal or greensand filters. Filter backwash water containing precipitated manganese may be fed into the sanitary sewer. This treatment will required no additional chemicals because sodium hypochlorite is already being used as a disinfectant. Removal of manganese sludge from the storage tanks will be performed periodically following AWWA standards for water storage tanks AWWA C652-02 and AWWA D101-53 (R86 and performed by inspectors certified by National Association of Corrosion Engineers. Activated carbon will be backwashed and the backwash water deposited into the sanitary sewer. Spent carbon will be replaced with new carbon and transported to the manufacturer for regeneration. However, these treatment facilities are in operation throughout many urban areas throughout State of California and there are routine operational procedure that assure the safety of the surrounding land uses, including residential neighborhoods and schools. Whenever possible, the chemicals used will be chosen with consideration to the safety of the public and will be the least toxic chemicals that are available to perform the necessary treatment. All chemical used for wellhead treatment will be delivered by licensed drivers, fully trained in the hazards of the materials they are transporting. All chemicals and treatment materials that are stored at the treatment site will be self contained and stored within double containment facilities when appropriate to do so. All handlers of spent materials will be licensed and fully trained in the proper handling,

transportation, and disposal of these materials. Deliveries, transportation and disposal of all materials will be done in accordance with all applicable Federal, State, County and Local Ordinances. City Operations and Maintenance Department staff also indicated that with the incorporation of the procedures cited below as Mitigation, there would be a Less-Than-Significant Impact with Mitigation Incorporated on creation of a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

MITIGATION MEASURE – HAZARDOUS MATERIALS

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.

b) Because the proposed Fairview Village CFD No. 2003-1, the facilities that it would construct, specifically, the water well-head treatment facilities, the operation and maintenance of these facilities (see above discussion in item (a) regarding potential hazardous materials) would be in accordance with the procedures of the City's Operations and Maintenance Department, there would be no foreseeable hazardous materials accident conditions. Therefore, there would be no impact to creation of 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. Should an accidental spill or hazardous materials incident occur, the appropriate division of the County Environmental Resources Department and City Departments would respond as with any other location within the Modesto Urban Area.

c) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1, include water well-head treatment facilities, the operation and maintenance of these facilities (see above discussion in item a) regarding potential hazardous materials) would be in accordance with the procedures of the City's Operations and Maintenance Department, there would be no foreseeable hazardous materials accident conditions. Therefore, there might be a potential for the exposure to the public to toxic materials that are used in well-head treatment facilities such as sodium hypochlorite (bleach) or by products of other treatment processes. However, City Operations and Maintenance staff indicate that with the incorporation of the appropriate procedural program of Mitigation cited below there would be a Less Than Significant Impact with Mitigation Incorporated Impact to emission of or handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **Incorporation of the procedures mitigation cited below would ensure a Less than Significant impact:**

MITIGATION MEASURE – HAZARDOUS MATERIALS

The mitigation provided by item a) above will reduce impacts for item c) to Less Than Significant.

- d) The proposed Fairview Village CFD No. 2003-1 and the facilities it would construct would be located within future residential areas of the General Plan as designated in the adopted Fairview Village Specific Plan, and would not be located within any known Hazardous Materials Zones as described on the CA Department of Toxic Substance Controls' Hazardous Waste and Substances Site List (Cortese List), list dated 10/6/03 for Stanislaus County reviewed by City Staff. Therefore, there would be no impact to being 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, the project would not create a significant hazard to the public or the environment.
- e) Because the proposed Fairview Village CFD facilities and the land uses it serves, are in excess of 2 miles west of the Modesto City/County airport, there would be no impact to a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would not result in a safety hazard for people residing or working in the project area.
- f) Because the proposed facilities to be financed and constructed by the Fairview Village CFD No. 2003-1 and the development it would serve would be located within a planned City subdivision that is part of an adopted Specific plan area and there are no private airstrips within or adjacent to the Modesto General Plan Area , there would be no impact to a project within the vicinity of a private airstrip, or a safety hazard for people residing or working in the project area.
- g) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct would be located within a planned City Neighborhood within an adopted Specific Plan with a circulation system designed per City Engineering and Transportation Department standards, there would be no impact to Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The Specific Plan development would improve Carpenter Road which is an Emergency Evacuation Route per Figure VI-3 of the General Plan.
- h) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 will be located within an approved Specific Plan within a Comprehensive Planning District of the Modesto General Plan, which is currently irrigated agricultural, orchard and row crop lands, there would be no impact to exposing 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.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XVII. LANDSLIDES AND SEISMIC ACTIVITY –

Compared to the Master EIR certified for the Modesto Urban Area General Plan will the project result in increased impacts to:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

[]	[]	[]	[X]
-----	-----	-----	-------

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) 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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) 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 on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XVII LANDSLIDES AND SEISMIC ACTIVITY

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Landslides and Seismic Activity (pages V-17-1 through V-17-11) remain valid for the reasons discussed below.

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area, and the Galas Brothers Subdivision are located in a residential Comprehensive Planning District of the General Plan, and, per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death.
- b) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area, and the Galas Brothers Subdivision are located within a City Comprehensive Planning District of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: 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.

- c) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area and the Galas Brothers Subdivision would be located with planned Comprehensive Planning District residential areas of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.
- d) Because the proposed Fairview Village CFD No. 2003-1 located within planned City Comprehensive Planning District of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving Seismic-related ground failure, including liquefaction
- e) Because the proposed Fairview Village CFD NO. 2003-1 the facilities it would construct, and the land uses it would serve, are located with planned City Neighborhood parks in future residential areas of the General Plan, Fairview Village Comprehensive Planning District, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving result in landslides.
- f) Because the proposed Fairview Village CFD NO. 2003-1, the facilities it would construct and the land uses it would serve are located within planned City Neighborhood parks in future residential areas of the General Plan where development must be pursuant to the City's Standards and Uniform Building Code, there is no impact to exposure of people or structures to potential substantial adverse effects resulting in substantial soil erosion or the loss of topsoil.
- g) Because the Fairview Village CFD NO. 2003-1, located within adopted Specific Plan area future residential areas of the General Plan constructed to City standards, and Uniform Building Code which rates the suitability of soils for development, there is no impact to being 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 on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
- h) Because the proposed Fairview Village CFD NO. 2003-1 facilities to serve future residential area of the General Plan constructed to City standards and the Uniform Building Code, there is no impact to being located on expansive soil, as defined in Table 18- 1B of the Uniform Building Code (1994), creating substantial risks to life or property.
- i) The proposed Fairview Village CFD No. 2003-1 facilities would be located within a planned City future residential area of the General Plan and constructed to City standards, there is no impact to soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water, because the Modesto Municipal Code requires connection to the City's Sanitary Sewer System and does not permit construction of alternative waste water disposal system.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
XVIII. <u>ENERGY</u> – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:				
a) Use of fuel, water, or energy in a wasteful manner.	[]	[]	[]	[X]
b) Encourage activities which result in the use of large amounts of fuel, water, or energy.	[]	[]	[]	[X]

XVIII. ENERGY

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Landslides and Seismic Activity (pages V-17-1 through V-17-11) remain valid for the reasons discussed below.

Discussion:

- a) Because service providers indicated ability to serve the area covered by the MEIR, including the Fairview Village CFD No. 2003-1, and because of the low energy requirements of the land uses associated with the project (storm drainage basin, water tanks, pumps, pipes, well-head treatment, and parks facilities) there would be no impact to use of fuel, water, or energy in a wasteful manner.
- b) Because energy service providers indicated ability to serve the area covered by the MEIR, including Fairview Village CFD No. 2003-1 and because of the low energy requirements of the land uses associated with the project (storm drainage basin, water tanks, pumps, pipes, well-head treatment, and parks facilities) there would be no impact to Encourage activities which result in the use of large amounts of fuel, water, or energy.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
XIX. <u>AESTHETICS</u>– Would the Project:				
a) Have a substantial adverse effect on a scenic vista?	[]	[]	[X]	[]
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	[]	[]	[]	[X]
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	[]	[]	[]	[X]
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area	[]	[]	[]	[X]

XIX. AESTHETICS

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct (water wells, parks, storm drainage basins, water tanks, parkways etc) for the Galas Brothers Subdivision would be landscaped and include a program of maintenance to prevent the degradation of the visual character of the facilities, and are located within an adopted Specific Plan that provides standards for residential development there would be a less than significant impact to a substantial adverse effect on scenic vista.
- b) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision would be addressed by the policies and standards in the Fairview Village adopted Specific Plan, and there are no unique scenic resources because the property is essentially, irrigated commercial farm land, there is no impact to substantially damaging scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.
- c) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision, would be addressed by the policies and standards contained in the adopted Fairview Village Specific Plan, and the existing visual character of the site and its surroundings with is that of an irrigated commercial farm property, there would be no impact to substantially degrading the existing visual character or quality of the site and its surroundings.
- d) Because the proposed Fairview Village CFD No. 2003-1 and the infrastructure it would construct are located within the adopted Fairview Village Specific Plan area, the City's standards and criteria for development would apply. Therefore City standards for design and development of lighting facilities would have no impact on creating a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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XX. LAND USE AND PLANNING – Would the project:

- | | | | | |
|---|-----|-----|-----|-------|
| a) Physically divide an established community? | [] | [] | [] | [X] |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | [] | [] | [] | [X] |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | [] | [] | [] | [X] |

XX. LAND USE AND PLANNING

Discussion:

- a) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct (water wells, parks, storm drainage basins, water tanks, parkways etc) for the Galas Brothers Subdivision are located within an adopted Specific Plan for the development of an existing approximately 82-acre irrigated commercial farm property, there would be a no impact to physically dividing an established community.
- b) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision would be addressed by City of Modesto (lead agency) policies and standards in the Fairview Village adopted Specific Plan, there is no impact to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- c) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision, would be addressed by the policies and standards contained in the adopted Fairview Village Specific Plan, and the site and its surroundings are an irrigated commercial farm property with no applicable conservation plan or agricultural preservation restrictions, there would be no impact to conflict with any applicable habitat conservation plan or natural community conservation plan.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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XXI. 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? [] [x] [] []

- 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 effect of other current projects, and the effects of probable future projects). [] [x] [] []

- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? [] [x] [] []

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Discussion:

- a) As set forth in the MEIR and this Initial Study, this project does not have the potential to further degrade the quality of the environment. Although the project would be located within areas identified in the MEIR as potentially biologically, archaeologically, historically or otherwise significant area, and although the Initial Study has identified new potential impact not analyzed in the Master EIR or Focused EIR to water supplies, water quality, and hazardous materials with the application of appropriate available mitigation measures, these potential impacts can be reduced to less than significant with mitigation incorporated (see Section XXII below for mitigation measures).

- b) Because the project would provide a financing mechanism for the construction of the necessary facilities to meet General Plan standards for the planned development of Fairview Village Specific Plan area as well as specific facilities for an approved Vesting Tentative Subdivision it would reduce previously identified impacts. The project, (the infrastructure plus the development it would serve) has the potential to cause cumulative impacts to water supplies and water quality, however, with the incorporation of proposed mitigation it would have a less-than significant with Mitigation Incorporated which would be cumulatively considerable. The MEIR prepared on the General Plan specifically estimates development of the entire General Plan by the year 2025. This project is a small increment of that development. Since the adoption of the MEIR, there are no major projects proposed in the vicinity of this project which would further exacerbate impacts which have not already been reviewed (see Section XXII below for mitigation measures).

- c) Finally, as set forth in both the MEIR and this Initial Study/Mitigated Negative Declaration, although the project has the potential to cause substantial adverse effects on human beings for Water Quality and Hazardous Materials, either directly or indirectly, with the addition of the mitigation measures proposed, the impacts would be reduced to less-than-significant with Mitigation Incorporated (see Section XXII below for mitigation measures).

XXII. RESULTS OF PUBLIC REVIEW

A Public Review document including the Initial Study and Findings, the Draft Mitigated Negative Declaration was prepared that provided CEQA review of the proposed Fairview Village CFD No. 2003-1, the draft document and supporting documents, was circulated for Public Review from October 13, 2003 to November 12, 2003. During this review period, letters of comment were received by the City, providing comments on the Draft Mitigated Negative Declaration. These letters are identified as follows:

<u>Letter</u>	<u>Agency</u>	<u>Date Received</u>
A	Department of Health Services	November 14, 2003
B	Department of Health Services	November 24, 2003
C	Governor's Office of Planning & Research	November 20, 2003
D	Governor's Office of Planning & Research	November 14, 2003
E	Richard Jantz, Stanislaus County ERC	November 14, 2003
F	San Joaquin Valley Air Pollution Control District	November 17, 2003
G	Modesto City Schools	November 14, 2003
H	California State Department of Transportation	November 7, 2003
I	Stanislaus Council of Governments	November 5, 2003
J	Modesto Irrigation District	November 3, 2003
K	Stanislaus LAFCO	October 21, 2003

City responses to each comment presented in each letter, as well as copies of those letters are presented in the following pages. None of the letters raised new environmental issues that had not been discussed and mitigation provided at the time the Draft Mitigated Negative Declaration was released for public review. No new avoidable significant effect was identified or mitigation measures added that would result in a substantial revision to the document. Pursuant to CEQA Section 15073.5 (c), language was added in response to comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects, which clarifies, amplifies or makes insignificant modifications to the negative declaration.

Based upon the substantial evidence presented in the Initial Study, and in recognition of the (11) letters of comment received on the Draft Mitigated Negative Declaration, the findings in the following Determinations section, Section XXII, can be made.

A

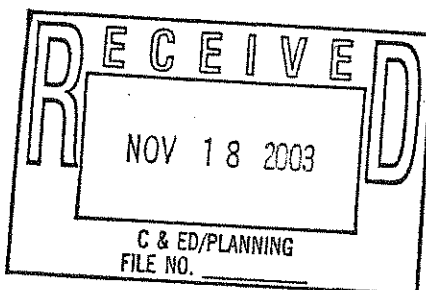
State of California—Health and Human Services Agency
Department of Health Services



DIANA M. BONTÁ, R.N., Dr. P.H.
Director



GRAY DAVIS
Governor



November 12, 2003

Patrick Kelly
Principal Planner
Community & Economic Development Department
City of Modesto
1010 Tenth St., Suite 3300
Modesto, CA 95354

COMMENTS ON DRAFT MITIGATED NEGATIVE DECLARATION FOR THE
FAIREVIEW VILLAGE CFD - SCH#2003102055

Thank you for the opportunity to review the Draft Mitigated Negative Declaration for the Fairview Community Facilities District No. 2003-01 prepared by the City of Modesto (City). The comments in this letter are limited to the water quality and quantity related issues in the report.

The project includes formation of a Community Facilities District to provide a financing mechanism for the Fairview Village Specific Plan Area and to fund the infrastructure and its maintenance for the 81.66 acre Galas Brothers Subdivision, a 383 lot residential subdivision that includes a portion of a neighborhood park, a storm drains system, a wastewater system, a water well site, wellhead treatment, distribution pipe lines, a water tank and booster pumps.

From the draft report, the Department notes that a drinking water well will be drilled to provide drinking water to the proposed subdivision, which is located in the southwest area of the City. The Department further notes that a test hole was drilled in the area to test the ground water quality at different strata levels below grade. The results of water quality analyses indicated that the well water exceeded the drinking water standard of 45 mg/L for nitrate, 15 pCi/L for gross alpha, and 0.05 mg/L for manganese. The draft report suggests that treatment would

A1

Flex your POWER provided to bring the proposed well in compliance with drinking water standards. Do your part to help California save energy. To learn more about saving energy, visit the following web site: www.consumerenergycenter.org/flex/index.html

Southern California Drinking Water Field Operations Branch
31 East Channel Street, Room 270, Stockton, CA 95202
(209) 948-7696; (209) 948-7451 FAX

Internet Address: <http://www.dhs.ca.gov/nc/iddwem/technical/dwn/dwnindex.htm>

The Department notes that the proposed project is located in an area where the City already face water shortages especially during the high demand period of summer. As a result, consumer complaints regarding low pressure are common. Water quality is also a big concern. The City has taken number of wells out of service due to high uranium, nitrate, and organic chemical contamination. The City has not yet decided what to do with those contaminated wells, although they may either destroy them or use them with treatment. Drilling another new well, as mentioned in the draft report, with known contaminants does not seem to be the most reasonable approach when some existing wells in the area have already been taken offline due to similar problems.

A2

A3

A4

Treatment of the new well for the removal of nitrate and uranium will be complicated and costly, as multiple treatment units may be needed for this purpose. It is also necessary to consider the cost associated with operation and maintenance of the treatment plant. In addition, disposing of any uranium waste generated during the treatment process may become another huge problem. Placing the uranium waste with the City's wastewater is an option. However, it is the Department's understanding that placing sewage effluent with radioactive waste in evaporation/percolation ponds is considered disposal of the radioactive waste to land, which is currently banned by the State. Therefore, since the City's wastewater system holds wastewater in ponds for at least half, or more, of the months of the year, the City will need to include provisions to avoid the disposal of radioactive waste to land.

A5

A6

Note that the Department may not permit the use of the proposed new well with treatment, until the City can satisfactorily establish where and how the uranium waste will be discarded and that the disposal method does not violate any local, State, and/or Federal law.

A7

It is noted here that the City drilled a well (No. 100 previously called No. 65) in south Modesto a while back to supplement the existing source capacity. The City was hoping that addition of this well to the water system would alleviate some of the water shortage concerns. However, the well has not been used due to elevated level of nitrate (>45 mg/L). The unavailability of this well adds to the Department's concerns regarding the City's inability to

A8

maintain an operating pressure at all service connections of not less than 20 psig during the maximum demand period.

A8

Therefore, the Department is opposed to allowing any further housing growth in the south Modesto area until the City has satisfactorily resolved the water quality and quantity issues for the existing and potential future consumers in Modesto, particularly the issue related to the disposal of waste generated by the proposed treatment process.

A9

Note that in the interest of public health, it is the Department's policy that the best possible source should be used for drinking purposes. Therefore, the Department is hesitant to accept any new contaminated source with treatment if an uncontaminated source could be developed instead. As a result, it is recommended that the City proceed very carefully and look for areas with known good quality and quantity of water before drilling any wells in order to avoid any unnecessary potential risks associated with the treatment of contaminated well water.

A10

Furthermore, the need to provide additional treatment to existing groundwater supplies is anticipated in the near future due to other pending regulations under development by the U.S. Environmental Protection Agency (EPA). Analyses of the economic impacts of the new regulations indicate that compliance with the new regulations will significantly increase the cost associated with the continued use of the contaminated groundwater supplies through treatment.

A11

An alternative to drilling new wells would be the expansion of the use of treated surface water that currently delivers water of good quality to the City, which still significantly depends on poor quality ground water. This expansion will not only assure a continuous and reliable supply but also a higher quality of water all year long to the City. This would reduce the City's dependence on the local groundwater and would adequately address some of the concerns regarding the poor ground water quality and the potential for aquifer overdraft. Aquifer overdrafting has resulted in an increase in the concentration of uranium and other contaminants in some of the City's wells rendering them unusable.

A12
A13

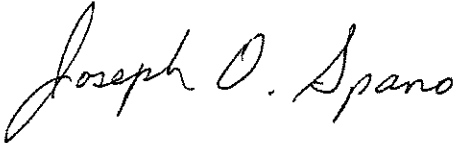
Once again, it is the Department's position that the additional use of treated surface water would be the best

A14

alternative to the local groundwater as a continuous and reliable supply of water of higher quality all year long to the consumers. This would also adequately address some of the concerns the consumers may have regarding the poor groundwater quality.

A11

If you have questions concerning this letter, please contact Tahir Mansoor of this office at (209) 948-3879.



Joseph O. Spano, P.E.
District Engineer
Drinking Water Field Operations Branch
Stockton Office

Cc: Allen Lagarbo, City of Modesto
State Clearinghouse, Sacramento

A:\1103 - Fairview Neg Dec Comments

State of California—Health and Human Services Agency
Department of Health Services



California
Department of
Health Services

DIANA M. BONTÁ, R.N., Dr. P.H.
Director

ARNOLD SCHWARZENEGGER
Governor

November 24, 2003

Patrick Kelly
Principal Planner
Community & Economic Development Department
City of Modesto
1010 Tenth St., Suite 3300
Modesto, CA 95354

REVISED COMMENTS ON DRAFT MITIGATED NEGATIVE DECLARATION FOR
THE FAIRVIEW VILLAGE CFD – SCH#2003102055

Since commenting on the Fairview Village Draft Mitigated Negative Declaration for the Fairview Village CFD, the Department has developed a better understanding of the project and the purpose of the Mitigated Negative Declaration.

Most of the comments in the Department's November 12, 2003 letter are general comments relevant to the area of the City of Modesto south of the Tuolumne River and west of State Route 99. For more than a decade, the City has had problems with both the quality and the quantity of water available in that area for domestic use. The Department's comments in the letter of November 12, 2003, focus primarily on general problems that exist in a large quadrant of the City. While the Fairview Village development is in that sector of the City, it is not expected that this single development should bear the responsibility or provide the solutions to these more extensive problems.

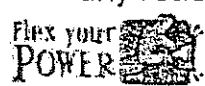
In contrast, it is the view of the Department that the City of Modesto must develop a viable, long term plan that properly addresses the domestic water supply problems in southwest Modesto. While interim measures, such as those proposed for the Fairview Village development may deal with some of the problems on a short term basis, the Department is concerned about the long term validity of the proposed measures.

B1

The domestic water supply solution proposed by Del Valle Homes for the Fairview Village development does have some short term merit. The proposed treatment of the ground water available in southwest Modesto should provide water that meets domestic water quality standards. In addition, the 20 inch diameter transmission main line to deliver better quality water from north Modesto to the area south of the Tuolumne River does provide a redundant supply which adds reliability that will be necessary when the new well proposed for Fairview Village and its treatment systems are out of service for any reason.

B2

B3



Do your part to help California save energy. To learn more about saving energy, visit the following web site:
www.consumerenergycenter.org/flex/index.html

Southern California Drinking Water Field Operations Branch
31 East Channel Street, Room 270, Stockton, CA 95202
(209) 948-7696; (209) 948-7451 fax

Assuming the residuals from the treatment process can be disposed properly and legally, the Fairview Village treatment proposal may demonstrate the technology of an approach that can be used by the City of Modesto to return some of its existing wells in southwest Modesto to service for some period of time. However, if discharging specific, hazardous contaminants into the San Francisco Bay, through the use of another community's waste water flow as a diluent, is acceptable currently, it is possible that such disposal methods may lack long term viability. As more communities utilize San Francisco Bay disposal of hazardous water treatment residuals, the capacity of the Bay to assimilate those contaminants may generate environmental problems that could lead to strict limitations, or even a ban on such disposal methods. In addition, until that day arrives, the City may find itself competing with more affluent communities that are able and willing to pay much higher rates to facilitate the disposal of their residuals into the San Francisco Bay, thereby impacting the economic viability of the disposal option.

B4
B5

As a result, the Department believes that the City of Modesto should develop a long term water supply plan that identifies responses that can be readily implemented to assure an adequate supply of good quality domestic water in southwest Modesto when economic and technological pressures restrict the disposal of hazardous water treatment residuals into San Francisco Bay. However, that is an issue that should be addressed independent of the Fairview Village water supply issue.

B6

The Department now recognizes that the Fairview Village development is important to the City of Modesto in satisfying a need for affordable housing and for housing accessible to persons with disabilities. While the Department has some concerns related to environmental issues associated with the Fairview Village development, there is no evidence, at this time, that the proposed process will not meet current environmental standards. Instead, due to a lack of experience with the proposed treatment residual disposal process, the Department will need documentation of the legality and environmental acceptability of the disposal process before permitting the treatment of the water from the new Fairview Village well for domestic use.

B7

Since the Department has the authority to withhold a permit to the City for the new Fairview Village well with the treatment process if the City is not able to provide documentation, with its permit application, that assures the legality and environmental acceptability of the disposal of the hazardous residuals from the new well and treatment system, the Department withdraws any comments in its November 12, 2003 letter that might be detrimental to the approval of the Fairview Village CFD or the progress of the Fairview Village development and the benefits it will bring to the City in terms of affordable housing and housing accessible to persons with disabilities.

B8

Before a permit is issued to the City for the new Fairview Village well with the treatment process that necessitates the disposal of water treatment residuals, it will be necessary for the City to provide documentation to the Department that verifies the legality and environmental acceptability of the disposal of the residuals into San Francisco Bay. If

E

these requirements are satisfied, the necessary permit will be issued for the new Fairview Village well with the proposed treatment processes.

B9

The Department's familiarity with the ground water in north Modesto and the recharge that results from the extensive irrigation of that general area with high quality surface water provided by the Modesto Irrigation District suggests that importing the limited supply of water needed for the 383 houses to be constructed in the Fairview Village development should have a limited environmental impact on the City of Modesto. However, the limited extent to which water imports from the north into southwest Modesto have been practiced, in spite of the shortage of water of acceptable quality in southwest Modesto, suggests that extensive use of that approach is not viable. Therefore, there are some important environmental issues to be addressed by the City of Modesto before more extensive development is initiated in southwest Modesto.

B1C

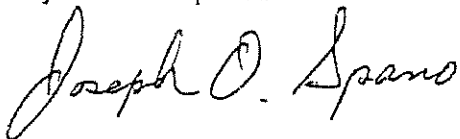
Therefore, the Department has a mechanism, through the permit process, to deal with the limited environmental concerns related to the 383 houses proposed in the Fairview Village development, appropriate environmental documentation should be developed to address the environmental issues associated with more extensive development in southwest Modesto.

B11

As stated in the Department's letter of November 12, 2003, it appears that the development of treated surface water as a source of domestic supply in the area of Modesto south of the Tuolumne River may be the most viable and sustainable practice for assuring an adequate supply of high quality drinking water in that area. A similar project in the area of Modesto north of the Tuolumne River resolved water quality and quantity shortcomings in that area nearly 10 years ago, and the success of that project suggests that a similar project in the area south of the Tuolumne River would have similar success in solving water quality and quantity problems in that area.

B12

If you have questions concerning this matter, contact me at (209) 948-3816.



Joseph O. Spano, P.E.
District Engineer
Drinking Water Field Operations Branch
Stockton Office

cc: Allen Lagarbo, City of Modesto
State Clearinghouse, Sacramento

RESPONSE TO LETTER "A", RECEIVED NOVEMBER 14, 2003, AND LETTER "B", RECEIVED NOVEMBER 24, 2003
State Department of Health Services

Proposed Changes in the Negative Declaration Resulting from this Letter

The two letters provided instances of comments on the document regarding mitigation of project water quantity and water quality impacts. Where applicable, the document has been revised to clarify the Water Supplies, Water Quality, and Hazardous Materials Sections discussion and respond to the comments as outlined below:

The following responses are related directly to the November 12, 2003, letter, Letter "A":

- A 1. The proposed Well-Head Treatment System (Treatment System) currently planned for the Fairview Village Specific Plan Area (Project) will enable the City of Modesto to provide potable water to the Project area that meets regulatory drinking water standards, including the Maximum Contaminate Levels (MCL) for manganese, nitrate and gross alpha (an indicator for uranium), as well as others.

Manganese removal will be achieved via an adsorption/catalytic oxidation process, using a manganese dioxide based media. The media is self regenerating and highly effective. Manganese dioxide media has been widely used and permitted for a number of years for the removal of manganese from drinking water. Nitrate and uranium reduction will be achieved with an Ion Exchange system. Ion exchange is a proven technology that is well known and has been used commercially in a wide variety of applications for over 50 years. Ion exchange has been designated Best Available Technology by the Environmental Protection Agency for the removal of nitrate and uranium from drinking water sources.

The proposed Treatment System is anticipated to reduce manganese in the treated water to <0.05 mg/L, nitrates to <28 mg/L, and uranium to <2 pCi/L.

- A 2. The City uses two water sources (groundwater and surface water) that provide a great deal of flexibility and reliability in operating its water system. New wells continue to be needed to meet existing and future demands in conjunction with the treated surface water.

Despite the shutdown of several wells near the Project area, there is a sufficient supply of water with adequate pressures throughout the City's water system. Water is being provided by wells near the Project area supplemented by a blended mixture of well water and treated surface water via a new 20-inch diameter pipe line from north of the Tuolumne River.

The City is currently working to solve the water quality and quantity issues in the south Modesto area by; (1) identifying potential well-head treatment options that could be installed at well locations currently shut-down so that they can be brought back on-line, (2) constructing new water lines originating north of the Tuolumne River and terminating south of it so that more of the higher quality groundwater extracted north of the river can be utilized in the south, (3) engaging in discussions with the Turlock Irrigation District (TID) about constructing a surface water treatment plant south of the Tuolumne River so as to provide another source of high quality surface water to the south Modesto area. A feasibility study has been completed by TID and they are discussing the possibility of delivering treated surface water to a number of municipal agencies within their jurisdictional boundary, including the south Modesto area, and (4) testing for additional well sites in areas with no known water quality problems. These, in conjunction with the current water conservation program and optimization of the water distribution process (additional

tanks, generators and booster pumps) will provide additional flow and pressure reliability to the south Modesto area.

As the first development within the Project area, the Galas Brothers Subdivision is required to install a new water line that can deliver additional water from outside the immediate area to within the Project area. In conjunction with this new supply line, the anticipated water backbone infrastructure for the Project area includes two wells, well-head treatment facilities, two storage tanks with booster pumps, back-up generators, and various pipe lines needed to convey either potable mixing water to the tanks from a near-by transmission line or distribute the treated water throughout the proposed system.

- A 3. City staff is considering various options as to what to do with the wells that have been taken out-of-service due to various types of contaminations. Currently, the most technically and economically feasible alternative is to bring them back on-line using a Treatment System similar to the one being proposed for this Project area (see Response A1).
- A 4. See Response A1, A2, and A3.
- A 5. The proposed Treatment System for the new wells in the Project area is based on proven technology that will produce high quality drinking water, with minimal energy and maintenance costs, that can be either purchased or leased, and compares favorably with other alternatives for supplying the Project area with potable water.
- A 6. The waste material resulting from the Treatment System process will be disposed of in accordance with all applicable laws governing such activities, and this cost has been contemplated throughout the planning process of the Project.

A private company will be contracted to collect, transport, and dispose of the brine wastewater from the Treatment System. The liquid brine wastewater will be hauled to a Publicly Owned Treatment Works (POTW) that is permitted to accept the brine. The anticipated POTW is not within the City's current sewer service area and the cost of treatment and disposal of the brine wastewater will be included in the monthly processing fee.

The proposed Treatment System has a very low brine wastewater production rate. The eliminated waste rate for this unit requiring off-site disposal, which takes into consideration the water quality chemistry from the site, is expected to be approximately one-quarter of one percent (0.25%) of the amount of water treated.

The only waste generated by the nitrate/uranium treatment process requiring special handling and disposal is the spent regenerant (brine). The brine is expected to be characterized as a Non-Hazardous Liquid per Federal, State and local regulations and it will be disposed of accordingly. The wastewater produced for the backwashing and rinse process of the manganese dioxide media is very innocuous and can be discharged directly to the sewer system.

Once the treatment unit has been operating and several regeneration cycles have occurred, the brine wastewater is sampled for characterization. The brine is analyzed at a California Certified Laboratory for total metals and in accordance to California Code of Regulations, Title 22 (C Al 17), and pH, plus any other constituents required by the disposal facility(ies). It is expected that the brine will not exceed any of the regulatory levels for metals per 40 CFR 261 and CCR 22; and therefore may be classified as Non-Hazardous.

Uranium will be present in the brine in a small concentration as indicated above. There are no Federal treatment standards established and based on the estimated concentration in this particular waste stream, it can be classified as NRC exempt in accordance to 10 CFR 40.13 (a) – Unimportant quantities of source material.

The brine generation, storage, transportation and disposal process has been designed to be a “closed-loop” program providing the highest level of personal and environmental exposure protection. The treatment system will be equipped with two (2) – 6,500 gallons (or 13,000 gallons storage capacity) brine storage tanks. Upon regeneration of the ion exchange beds, the spent or waste brine will automatically flow to the waste storage tanks. Both waste tanks are piped together so that the waste volume increases in each tank equally, although these can be segregated for maintenance, if necessary. The waste discharge line from each tank is piped to a common discharge line leading to a waste lock box mounted on the fence at the perimeter of the property (of the well). Shipments are scheduled after enough volume has been accumulated and a full tanker truckload (5,000 gallons) can be made. The truck will hook-up to a 4” leak tight male cam lock, and remove the brine via vacuum. The brine is then transported directly to the disposal facility. Once the truck arrives at the disposal facility, it will adhere to their requirements for discharge including the necessary paperwork.

The facilities owned and operated by the East Bay Municipal Utility District (EBMUD) is relatively close and is large enough, they receive shipments on a 24/7 basis, thus, it makes them the primary option to contract with regarding disposal of the waste brine.

- A 7. The specific details as to which method of transportation, haul routes, or disposal facilities have yet to be determined. A number of options are available, but at no time will the disposal method or handling of the waste material violate any local, State, or Federal law.

Also, see Response A6.

- A 8. Well 100 (formerly Well 60 and Old Well B9 prior to that) first went off-line in October 2003, thus, the water system has not gone through a summer without it being available. City staff will continue to meet all DHS regulations regarding low pressure disclosure requirements.

Also, see Response A1, A2, and A3.

- A 9. See Response A1, A2, A3, A6, and A7.

- A 10. It is the City’s practice to use the best possible and most practical source of water available. It is also the City’s practice to always consider the quality and quantity of availability water when selecting a potential well site.

- A 11. New water quality regulations currently being developed by the EPA has been anticipated in the planning of the Treatment System for the Project area. The cost increases associated with meeting the new regulations have also been anticipated in the Project’s budget and planning process.

- A 12. See Response A2.

- A 13. The operation of the Modesto Regional Water Treatment Plant (MRWTP) since 1995 has eliminated the basin overdraft condition that existed prior to use of treated surface water. The MRWTP also provides the City with conjunctive use opportunities including blending and groundwater recharge.

- A 14. See Response A2.

The following responses are related to the November 24, 2003, letter from State Department of Health Services, (letter "B"):

- B 1. See Response A2.
- B 2. See Response A1.
- B 3. See Response A2.
- B 4. See Response A6.
- B 5. See Response A6.
- B 6. See Response A2 and A6.
- B 7. See Response A6.
- B 8. See Response A6.
- B 9. See Response A6.
- B 10. See Response A2.
- B 11. Yes, DHS has the mechanism, through the permit process, to deal with the limited environmental concerns related to the proposed project, and the appropriate environmental documentation (as required by the California Environmental Quality Act guidelines) addressing each of the identified environmental issues is a requirement for every project developed within the City, including the south Modesto area.
- B 12. See Response A2.



Gray Davis
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse

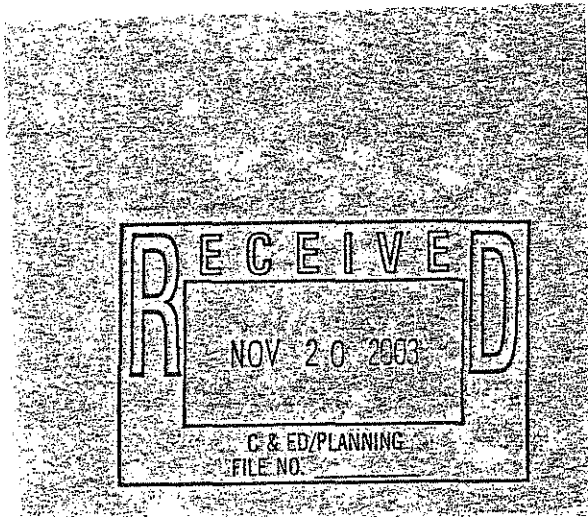


Tal Finney
Interim Director

November 18, 2003

Patrick Kelly
City of Modesto
P.O. BOX 642
1010 10th Street
Modesto, CA 95353

Subject: Fairview Village CFD #2003-1
SCH#: 2003102055



Dear Patrick Kelly:

The enclosed comment (s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on November 12, 2003. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2003102055) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures

cc: Resources Agency

REFER TO LETTER "A"
STATE DEPARTMENT OF HEALTH SERVICES
DATED NOVEMBER 12, 2003

RESPONSE TO LETTER "C", RECEIVED NOVEMBER 20, 2003
Governors Office of Planning and Research

See response to Letters "A" and "B" dated November 12, 2003 from Department of Health Services.

Proposed Changes in the Negative Declaration Resulting from this Letter

No changes are necessary. No new environmental issues were raised by these comments.



Gray Davis
Governor

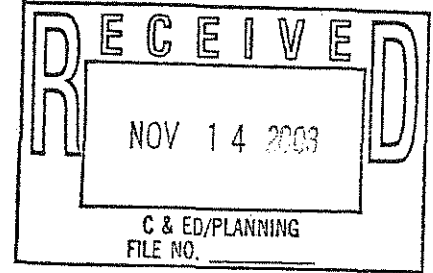
STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse



Tal Finney
Interim Director

November 13, 2003

Patrick Kelly
City of Modesto
P.O. BOX 642
1010 10th Street
Modesto, CA 95353



Subject: Fairview Village CFD #2003-1
SCH#: 2003102055

Dear Patrick Kelly:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on November 12, 2003, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Document Details Report
State Clearinghouse Data Bas

SCH# 2003102055
Project Title Fairview Village CFD #2003-1
Lead Agency Modesto, City of

Type Neg Negative Declaration

Description The project consists of formation of the Fairview Village Community Facilities District #2003-1 ("Fairview Village CFD"). The project includes the creation of a financing mechanism to fund construction of certain regional infrastructure with the Fairview Village Specific Plan area. A portion of the plan area contains the Galas Brothers Vesting Tentative Subdivision Map Units 1 & 2, consisting of 81.66 acres located in the northeast portion of the Fairview Village Specific Plan ("Galas Subdivision"). Development of the Galas Subdivision includes 383 single family residential lots, a water well, storm drainage basin, water tank, sewer outfall line & a portion of the central neighborhood park site & its related infrastructure. The Fairview Village CFD will fund a portion of the infrastructure & its maintenance. The Galas Subdivision will be responsible for constructing a portion of this infrastructure, will be subject to the CFD tax & may be entitled to certain reimbursements for that work. The remaining properties within the 359 acre Fairview Village Specific Plan area will annex to this CFD in the future, as that area develops. Further planning studies & environmental review will be required before the properties may develop or annex to the CFD.

Lead Agency Contact

Name Patrick Kelly
Agency City of Modesto
Phone 209-577-5218 **Fax**
email
Address P.O. BOX 642
1010 10th Street
City Modesto **State** CA **Zip** 95353

Project Location

County Stanislaus
City Ceres
Region
Cross Streets Carpenter Road, Hatch Road, Whitmore Avenue
Parcel No. various
Township **Range** **Section** **Base**

Proximity to:

Highways 99
Airports
Railways Union Pacific
Waterways Tuolumne River
Schools Fairview Elementary
Land Use Fairview Village Specific Plan

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 10; Caltrans, Division of Transportation Planning; Department of Housing and Community Development; Department of Health Services; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; State Lands Commission

Document Details Report
State Clearinghouse Data Bas

Date Received 10/14/2003

Start of Review 10/14/2003

End of Review 11/12/2003

RESPONSE TO LETTER "D", RECEIVED NOVEMBER 14, 2003
Governors Office of Planning and Research

This letter provided a record of the assigned State Clearinghouse Number, 2003102055, and circulation to Responsible Agencies.

Proposed Changes in the Negative Declaration Resulting from this Letter

No changes are necessary. No new environmental issues were raised by these comments.



E
CHIEF EXECUTIVE OFFICE

Reagan M. Wilson
Chief Executive Officer

1010 10th Street, Suite 6800, Modesto, CA 95354
P.O. Box 3404, Modesto, CA 95353-3404

Patricia Hill Thomas
Assistant Executive Officer
Phone: 209.525.6333 Fax 209.544.6886

November 12, 2003

Patrick Kelly
City of Modesto – C&ED
PO Box 642
Modesto, CA 95353

SUBJECT: ENVIRONMENTAL REFERRAL-CITY OF MODESTO-DRAFT
MITIGATED NEGATIVE DECLARATION FOR THE FAIRVIEW
VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-01

Mr. Kelly:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has the following comment(s):

- The ERC attaches hereto and incorporates herein by reference the correspondence from the San Joaquin Valley Air Pollution Control District to the City of Modesto dated November 12, 2003.] E1
- The ERC attaches hereto and incorporates herein by reference the correspondence from the Stanislaus Council of Governments to the City of Modesto dated October 31, 2003.] E2
- The ERC attaches hereto and incorporates herein by reference the correspondence from the Stanislaus County Department of Parks and Recreation to the City of Modesto dated November 12, 2003.] E3

The ERC appreciates the opportunity to comment on this project.

Sincerely,

W. Richard Jantz, Deputy Executive Officer
Raul Mendez, Senior Management Consultant
Environmental Review Committee

cc: ERC Members

REFER TO LETTER "F"
SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
DATED NOVEMBER 12, 2003

**REFER TO LETTER "I"
STANISLAUS COUNCIL OF GOVERNMENTS
DATED OCTOBER 31, 2003**



PARKS AND RECREATION

Administration

3800 Camucopia Way, Suite G, Modesto, CA 95358-9
Phone: 209.525.6750 Fax: 209.525.6

June 24, 2003

FILE COPY

City of Modesto
Mr. Patrick Kelly
C&ED/ Planning Division
Tenth Street Place/ Third Floor
P.O. Box642
Modesto Ca. 95353

Dear Mr Kelly,

As a member of the Stanislaus County Environmental Review Committee (ERC), we are offering the following comments on the Specific Plan Amendment to the Fairview Village Specific Plan:

This development once fully built, will have a considerable impact to our existing Fairview Park. The impact includes an increased use of the existing park by Fairview Village residents and the operation and maintenance cost associated with this influence. In addition, there could be an impact on the alignment of Yuma Avenue depending on the set backs required for the western boundary regarding fencing, sidewalks, and streets.

We recognize that the project is within Modesto City limits. However, a project of this size developed in the County, would require a minimum of 3 acre per 1000/residents. Our recommendation is to mitigate the impact of the development by working with the City of Modesto Parks Department to expand the recreational opportunities for this project.

Using a formula based on the County General Plan requirements of 3 acres of park land per 1000 residents would suggest that this project have 21.6 acres of park. Your plan dedicates 10 acres for parks.

If you have any questions about these comments please feel free to call me or Deputy Parks Director, David Piper, at (209) 525-6750.

Sincerely,

Marty Johnson, Special Projects
Stanislaus County Department of Parks & Recreation

cc: David Piper, County Parks
Bob Kachel, County Planning
Arlene Stevens, CEO/ERC
Jim Niskanen, City parks
Doug Critchfield, City parks

E:

RESPONSE TO LETTER "E", RECEIVED NOVEMBER 14, 2003
Stanislaus County Chief Executive Office

The Stanislaus County Environmental Review Committee sent comment letter that combines comments from other agencies.

Proposed Changes in the Negative Declaration Resulting from this Letter

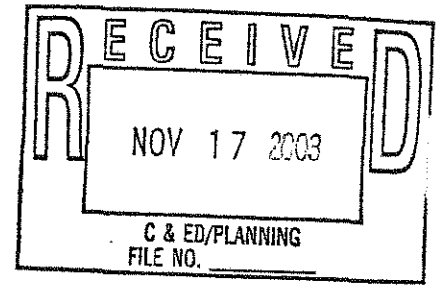
No changes are necessary. No new environmental issues were raised by these comments.

- E 1. See response to Letter "F" from the San Joaquin Valley Air Pollution District.
- E 2. See response to Letter "I", StanCOG.
- E 3. The commentator refers to a letter dated June 24, 2003 from the County Department of Parks and Recreation that comments on a proposed amendment to the Fairview Village Specific Plan. The letter suggests the Plan should provide 3 acres of park land per 1000 residents, based on the County's General Plan requirements. Notwithstanding the system of regional open space that is planned and available, the City of Modesto Parks and open space standards provide 2 acres per 1000 for neighborhood parks and 1 acre per 1000 for community parks.

F.



San Joaquin Valley
Air Pollution Control District



November 12, 2003

Patrick Kelly
Community and Economic Development Department
City of Modesto
P.O. Box 642
Modesto Ca 95353

SUBJECT: INITIAL STUDY AND DRAFT MITIGATED NEGATIVE
DECLARATION FOR THE FAIRVIEW VILLIAGE COMMUNITY.

Dear Mr. Kelly:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the proposed projects and offers the following comments:

The San Joaquin Valley's air quality has been designated nonattainment by the EPA and by the Air Resources Board (ARB) for O₃ (ozone) and PM-10 (fine particulate matter, dust). The Federal Clean Air Act (CAA) and the California Clean Air Act require areas that are designated nonattainment to reduce emissions until standards are met.

Based on the information provided, this project will exceed the District Small Project Analysis Level (SPAL) for impact on the ambient air quality. However, the significant air quality impacts from this development should have been addressed in previous environmental documents certified by the City of Modesto. If this project has not been the subject of environmental review from an air quality perspective, please provide that information so that appropriate comments may be made.

F1

The construction phase of this project can generate emissions from the movement of soil, use of heavy equipment, bulk materials handling, asphalt paving and other related activities. As a result, this project is subject to District Regulation VIII (Fugitive Dust Prohibitions). The purpose of Regulation VIII is to reduce the amount of fine particulate matter (PM-10) entrained into the ambient air from man-made sources. The Regulation

F2

David L. Crow
Executive Director/Air Pollution Control Officer

Northern Region Office
4230 Kiernan Avenue, Suite 130
Modesto, CA 95356-9322
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061
www.valleyair.org

Southern Region Office
2700 M Street, Suite 275
Bakersfield, CA 93301-2373
(661) 326-6900 • FAX (661) 326-6985

VIII series of rules has been updated and amended since the original environmental review for Village One was completed. The complete set of rules is available at the District's web site www.valleyair.org. A Dust Control Plan must be submitted for the District's approval at least 30 days before construction activities begin if the project cumulatively encompasses 40 acres or more or will move more than 2,500 cubic yards per day of material on at least three days of the project. A Compliance Assistance Bulletin has been enclosed for your review.

F2

On July 17, 2003 amendments to Rule 4901 were adopted by the District's Governing Board. Amendments to the rule affect future construction plans for residential developments, the following is a summary of these changes:

§5.3 Limitations on Wood Burning Fireplaces or Wood Burning Heaters in New Residential Developments.

Beginning January 1, 2004,

5.3.1 No person shall install a wood burning fireplace in a new residential development with a density greater than two (2) dwelling units per acre.

5.3.2 No person shall install more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.

5.3.3 No person shall install more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.

F3

District Rule 4103 regulates the burning of agricultural material. Agricultural material may not be burned if the land use is converting from agriculture to nonagricultural purposes. In the event that the project burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

F4

As a result of the Valley's nonattainment status, the District strongly recommends that the project applicant and the City of Modesto implement all feasible mitigation measures to reduce the amount of ozone precursors that will result from the buildout of this project. Please note that some of these measures may already exist as City development standards.

F5

- ◆ Energy efficient design including automated control system for heating/air conditioning and energy efficiency beyond Title 24 requirements, lighting controls and energy-efficient lighting in buildings, increased insulation beyond Title 24 requirements, and light colored roof materials to reflect heat.

F6

- ◆ Planting of deciduous trees on the south and westerly facing sides of buildings.

F7

- ◆ If transit service is available to the project site, improvements should be made to encourage residents to use it. If transit service is not currently available, but is planned for the future, appropriate easements should be reserved to provide for future improvements such as bus turnouts, loading areas, and shelters.

} F8

- ◆ Sidewalks and bikepaths should be installed throughout as much of the project as possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.

} F9

- ◆ When future project(s) reach the design phase, the District recommends that the applicant(s) consider design features which serve to reduce vehicle trips and increase activities such as walking, bicycling, transit use, and energy conservation, all of which help to reduce emissions. The District's *Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI)* describes these features. The current GAMAQI can be found at our website www.valleyair.org in the Site Map under *CEQA Guidance Documents*. Residential project design should use models put forward by the Local Government Commission (LGC). LGC has a wealth of information, publications (e.g. *Building Livable Communities: A Policymaker's Guide to Infill Development*), and links (e.g. *Affordable Housing Design Advisor*) to help create efficient, livable communities. More information can be found at <http://www.lgc.org/>.

} F10

- ◆ The City should consider the energy saving effects of tree placement around housing units. A brochure has been included for more information. Sources for information on urban trees include:

} F11

<http://www.coolcommunities.org>,
<http://www.energy.ca.gov/coolcommunity/strategies.html>
[http://www.lgc.org/bookstore/energy/downloads/sjv tree guidelines.pdf](http://www.lgc.org/bookstore/energy/downloads/sjv_tree_guidelines.pdf).

- ◆ Developments should include as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. There are many rebate and incentive programs that encourage different types of alternative energy sources. More information can found at:

} F12

<http://www.dsireusa.org/>
<http://homepower.com>
<http://www.energy.ca.gov/renewables/>

- ◆ The City should consider energy efficient design beyond Title 24 requirements. Examples of design elements include (but are not limited to): increased wall and ceiling insulation (beyond building code requirements); energy efficient lighting and high efficiency appliances; awnings or other shading mechanism for windows; ceiling fans; roofing materials with a high albedo to reflect heat; orient the units to maximize passive solar cooling and heating when practicable; install electrical outlets around the exterior of the units to encourage use of electric landscape maintenance equipment, install natural gas lines and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues; low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers or gas or electric barbecues); exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site, etc. More information can be found at:

<http://www.sustainable.doe.gov/>

<http://www.consumerenergycenter.org/index.html>

<http://www.energy.ca.gov/coolcommunity/strategies.html>

<http://www.lgc.org>.

F 13

Finally, one of the issues that will arise in conjunction with any proposed renovation/demolition of existing building in the project area is compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAPS). Specifically, the primary air pollutant of concern is asbestos. To ascertain whether this project is subject to NESHAPS, the project applicant is advised to review the enclosed *Asbestos - Compliance Assistance Bulletin*, dated December 1994. Brian Dodds is the Northern Region's District contact for the program and is available should you need further assistance.

F 14

Thank you for the opportunity to comment. If you have any questions, please feel free to contact me at (209) 557-6400.

Sincerely,



John Cadrett
Environmental Planner
Northern Region

APCD REF # 20030561

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
Compliance Assistance Bulletin- December, 1994
Asbestos Synopsis

Asbestos Demolition/Renovation-Summary:	
Prior to any renovation or demolition of a facility	
<p>Inspect: Conduct an asbestos inspection of the site before:</p> <ul style="list-style-type: none"> -Any renovation which 160 sq. ft. of building materials, or 260 linear feet of pipe insulation will be disturbed, or -Any demolition of a facility with or without asbestos-containing materials <p>Notify: Submit an asbestos notification form for any regulated renovation or demolition, 10 working days before the activity.</p> <p>Fees: Fees must be paid to the District with the notification for all regulated renovations and demolitions.</p> <p>Demolition Release Form: Prior to any demolition, you must have completed a demolition release form. Upon its approval by the District this signed form may be used as proof (needed by the building official) of compliance with, or exemption from, the NESHAP notification requirements.</p> <p>Submit this form to the building department with your application for a demolition permit.</p>	
Applicability	
<p>Facilities subject to the NESHAP (regulated facilities) include all commercial buildings, apartments with more than 4 units, other structures and non-portable equipment. Single family dwellings may be exempt, but only on a case by case basis.</p> <p>Demolitions subject to the NESHAP (regulated demolitions) are demolitions of facilities described above, whether or not asbestos is present.</p> <p>Regulated renovation applies to any activity in which 160 sq. ft. of regulated asbestos-containing building materials or 260 linear feet of asbestos-containing pipe insulation is disturbed at a regulated facility.</p>	
Asbestos Notification and Inspection Requirements	
Definitions	
<i>Facilities:</i>	<p>Facilities subject to the rule include "all structures, installations, buildings and equipment, except for single family dwellings and apartments with four or fewer dwelling units." Single family dwellings and apartments are also subject to the regulation if:</p> <ul style="list-style-type: none"> -There is more than one building at a site being renovated or demolished, or -The building had been used for, or is being removed for a commercial or public use, or is to be used as a training burn exercise.
<i>Demolition:</i>	<p>In addition to the total destruction of a structure, demolitions include "the removal of any structural load-bearing member from a facility together with any related handling operations or the intentional burning of a building: (training burns conducted by a fire fighting agency). Also, the separation of a structure from its foundation prior to relocation is a demolition.</p>
<i>Renovation:</i>	<p>Altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material (RACM) from a facility component. Renovations include all activities in which asbestos could be disturbed at a regulated facility, including the clean up and removal of debris from buildings which have burned.</p>

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
Compliance Assistance Bulletin- December, 1994
Asbestos Synopsis

<p>Definitions, Continued</p> <p><i>Regulated Asbestos-Containing Materials (RACM) Include:</i></p> <p><i>Friable Asbestos-Containing Material (ACM):</i></p> <p><i>Category I nonfriable ACM:</i></p> <p><i>Category II nonfriable ACM:</i></p>	<p>(1) Friable asbestos-containing material (ACM). (2) Category 1 nonfriable ACM in poor condition and "has become friable" or that has or will be subjected to sanding, grinding, cutting, or abrading. (3) Category II nonfriable ACM that has a high probability of becoming, or as become, crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation.</p> <p>Any material containing more than 1 percent asbestos, as determined by Polarized Light Microscopy (PLM) testing, which, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.</p> <p>Any asbestos-containing packings, gaskets, resilient floor coverings, and asphalt roofing products containing more than 1 percent asbestos as determined by PLM testing.</p> <p>Any asbestos-containing materials, excluding Category 1 ACM, containing more than 1 percent asbestos as determined by PLM testing, which when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.</p>
<p>Inspection: done by, or under the direction of a Cal-OSHA certified consultant prior to:</p> <ul style="list-style-type: none"> ● Any regulated demolition. ● Any renovation activity in which more than 160 sq. ft. of any building material or 260 linear feet of pipe insulation will be disturbed. An inspection is not required if the material to be disturbed is stipulated to be asbestos-containing and will be removed in accordance with the NESHAP. <p>Inspection Report Must Include:</p> <ul style="list-style-type: none"> ● A schematic showing the location of all tested materials. ● The following data for all asbestos-containing materials: <ol style="list-style-type: none"> 1. The amount and description of each material. 2. Percent asbestos content. 3. Whether or not the material is friable. 	
<p>Notification: An asbestos notification must be submitted to the District at least 10 working days prior to:</p> <ol style="list-style-type: none"> 1. Any regulated demolition. 2. Any renovation in which more than 160 sq. ft. or 260 linear ft. of RACM will be disturbed. <p>A copy of the Asbestos Inspection Report must be included with the Notification.</p> <p>Notification will not be considered complete, nor will the 10 working day notice period begin until all required information and fees have been submitted to the District.</p>	
<p>Fees: District Rule 3050 requires that nonrefundable asbestos fees be received along with asbestos job notifications. Fees must be paid for regulated asbestos abatement projects and regulated demolition projects, <u>whether or not asbestos is present.</u></p>	
<p>Demolition Release Form: The California Health and Safety Code requires that the city or county building official have proof of compliance with, or exemption from, the asbestos notification requirement before he or she issues a demolition permit.</p> <p>After the District has received a demolition notification and is satisfied that the NESHAP notification requirements have been complied with, the District will issue a Demolition Release Form to the person who submitted the notification.</p>	
<p>Recycle and Waste Disposal: The asbestos notification must also identify any building materials which will be recycled after removal from a project. The name of the recycling contractor and location of such activity must be identified.</p>	



San Joaquin Valley Air Pollution Control District

COMPLIANCE ASSISTANCE BULLETIN

September 2002

(Update from June 2002)

Fugitive Dust Control at Construction Sites

Regulation VIII, Fugitive PM₁₀ Prohibitions, of the District's Rules and Regulations regulates activities that generate fugitive dust. Fugitive dust is emitted to the air from open ground or caused by activities such as excavation, transporting bulk materials, or travel on unpaved surfaces. "PM₁₀" is a term applied to small sized particulate matter - microscopic dust particles - in the air. The San Joaquin Valley currently exceeds the air quality standards for particulate matter. It is for this reason that the District adopted Regulation VIII in 1993. Significant amendments to Regulation VIII were adopted in 2001 and became effective May 15, 2002. The following dust control and administrative requirements are applicable at construction sites:

Visible Dust Emissions (VDE). Visible dust emissions may not exceed 20% opacity during periods when soil is being disturbed by equipment or wind at any time. Dust control may be achieved by means of applying water before and during earth work and on traffic areas, phasing work to limit dust, and setting up wind fences to limit wind blown dust. VDE opacity of 20% means the amount of dust that would obstruct the view of an object by 20%.

Soil stabilization. Soil stabilization is required at any construction site after normal working hours and on weekends and holidays. This requirement also applies to inactive construction areas such as phased projects where disturbed land is left unattended. Applying water to form a visible crust on the soil is an effective method for stabilizing a disturbed surface area. Long-term methods include applying dust suppressants or establishing vegetative cover. Restricting vehicle access from the area will help to maintain a stabilized surface. Information regarding stabilization standards and test methods are in Rule 8011 – *General Requirements*.

Carryout and Trackout. These requirements are found in Rule 8041 – *Carryout and Trackout*. Carryout and trackout are materials adhered to vehicle tires and transport vehicles carried from a construction site and deposited onto a paved public road. Should carryout and trackout occur, it must be cleaned up at least daily, and immediately if it extends more than 50 feet from the exit point onto a paved road. The recommended clean-up methods include manually sweeping, sufficiently wetting the area prior to mechanical sweeping to limit VDE or using a PM₁₀-efficient street sweeper. A blower device, or dry sweeping with any mechanical device other than a PM₁₀-efficient street sweeper is prohibited.

Haul Roads. Dust control is required on all haul roads and unpaved vehicle and equipment traffic areas at construction sites, per Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Storage Piles and Bulk Materials. The handling, storage, and transportation requirements for bulk materials are found in Rule 8031 – *Bulk Materials*. These requirements include: applying water as materials are handled, stabilizing or covering stored materials, and installing wind barriers to limit VDE. Limiting vehicle speed, loading haul trucks with a freeboard six inches or greater, covering haul trucks, or applying water to the top of the load are options for reducing VDE from vehicle transportation of bulk materials.

Demolition. Wetting of the exterior of a building to be demolished is required. Demolition debris and the area around the demolition must also be controlled to limit VDE. Cleaning up carryout and trackout must be completed according to Rule 8041. Demolition activities are also subject to the District's asbestos rule, Rule 4002 – *National Emission Standards for Hazardous Air Pollutants*.

Dust Control Plans. For large construction projects, Rule 8021 requires the owner or contractor to submit a Dust Control Plan to the District for approval at least 30 days prior to commencing construction activities. This requirement applies to projects that include 40 or more acres of disturbed surface area or will involve moving more than 2,500 cubic yards per day of material on at least three days during the project.

Record keeping. All sites subject to the regulation that employ dust control measures must keep records for each day any dust controls are used. The District has developed record keeping forms for water application, street sweeping, and for "permanent" controls such as applying long term dust palliatives, vegetation, ground cover materials, paving, or other durable materials. Pursuant to Rule 8011, records must be kept for one year after the end of dust generating activities.

Exemptions. Activities in areas above 3,000 feet elevation are exempt from all Regulation VIII requirements. The following exemptions in Rule 8021 apply to construction activities:

- Blasting activities
- Maintenance and remodeling of existing buildings if the addition is less than 50% of the size of the existing building or 10,000 square feet. These activities, however, are subject to the District's asbestos rule, Rule 4002.
- Additions to single family dwellings
- Mowing, disking or other weed control on sites less than ½ acre.

Nuisance. Whether or not the construction activity is exempt from the Regulation VIII requirements, any activity that creates fugitive dust must not cause a nuisance, per Rule 4102 - Nuisance. Therefore, it is important to monitor the dust generating activities and, if necessary, plan for and implement the appropriate dust control measures to limit the public's exposure to fugitive dust.

This is a basic summary of Regulation VIII as it applies to the construction industry. For more information contact the Compliance Division of the District office nearest to you.

RESPONSE TO LETTER "F", RECEIVED NOVEMBER 13, 2003
San Joaquin Air Pollution Control District

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 14 instances of comments on the document regarding mitigation of project air quality impacts. Where applicable, the document has been revised to clarify the Air Quality Section discussion and respond to the comments as outlined below:

F 1. The significant air quality impacts of the project, which is a part of the Fairview Village Specific Plan were addressed in the Fairview Village Specific Plan Focused EIR (SCH#95 as well as through the Air Quality section of the recently updated General Plan Master EIR (SCH#1999082041). Air Quality Mitigation measures (specifically, PM-10) were applied to the project from the Master EIR, see Exhibit F, Mitigation Monitoring Plan.

F 2. As indicated in the discussion item for Air Quality, item b) page 10 of the Mitigated Negative Declaration, Regulation VIII (Fugitive Dust Rules) would be applied to the project to meet the Air District's air quality standards. The following revised Language indicating a Dust Control Plan must be submitted pursuant to Regulation VIII will be made to the mitigation measure clarify the SJVUAPCD requirement:

Mitigation Measure – Air Quality

"a. All applicable sections of SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10 (Rules 8011 through 8081) shall be applied to the project including Rule 8021 Section 6.3 Dust Control Plan. In addition, the following controls are required to be implemented at all construction sites:"

F 3. The project is formation of a financing district to fund installation of infrastructure to serve the Galas Brothers Subdivision, and eventually the remaining Specific Plan area. Conditions were placed upon the Vesting Tentative Subdivision Map at time of approval (December 1997). As the comment notes, future construction plans in the remaining Specific Plan area would certainly be subject to Rule 4091. Residential development of the remaining portion of the 359-acre Specific Plan area will be subject to this rule.

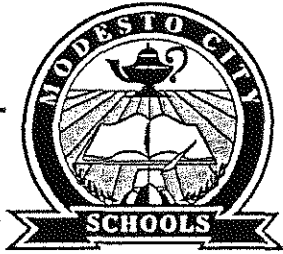
F 4. District Rule 4103 that applies to converting land use from agriculture to non agricultural purposes could potentially apply to the conversion of vineyards and orchards to the public infrastructure sites. Since these sites are within the Galas Brothers subdivision, the land will probably be cleared prior to development of the subdivision. The City will apply the following condition to the entitlement for development such as the grading permit:

"Pursuant to San Joaquin Valley Air Pollution District Rule 4103, agricultural material may not be burned if the land use is converting from agricultural to non-agricultural purposes."

F 5. The suggested Air Quality mitigation measures are contained in the General Plan Master EIR in a similar form and were incorporated into the project design via the Fairview Village Focused EIR Air Quality Mitigation Measure applied to this project.

F 6. Energy efficient design – title 24 requirements are routinely enforced by the City's Building Division plan check process for development applications, including residential development.

- F 7. Trees and Energy efficiency - The City's General Plan policy for energy (Energy Conservation, Policy I.a.) addresses orientation of tree plantings to promote energy efficiency.
- F 8. Transit - Modesto General Plan policies, chapter V Section I, requires the assessment of the feasibility of transit service facilities in subsequent projects, such as the Fairview Village Specific Plan. Appropriate transit facilities will be designed into the development of the Specific Plan Area to serve the Galas Brothers subdivision as well as the remainder of the Fairview Village CFD area.
- F 9. Pedestrian access to school site – General Plan Neotraditional Planning Principles, Policy III.C.3, were factored into the Specific Plans Connector Street layout, Figure 2.9 Circulation and Access Concept, which includes a component for pedestrian sidewalks.
- F 10. Design considerations to reduce vehicle trips – all suggested guidelines are excellent sources for project design. Since its adoption in 1995, the General Plan and General Plan MEIR require the review of project design in light of the Neotraditional Planning Principles contained in the General Plan. Development standards based on these and similar models for residential development are proposed for adoption into the Fairview Village Specific Plan Amendment that should occur in the near future.
- F 11. Energy saving effects of tree placement – the suggested sources are noted, see also response to item No. 7.
- F 12. Clean energy features – the suggested sources are noted, the use of these alternative energy sources is encouraged by the City's General Plan.
- F 13. Design beyond Title 24 requirements – the sources cited provide very good recommendations on use of energy efficient and less polluting technologies.
- F 14. The proposed project area is almost entirely existing agricultural lands that do not contain structures that would be demolished during the development process. The specific bulletin regarding asbestos (NESHAPS) and contact person, is noted.

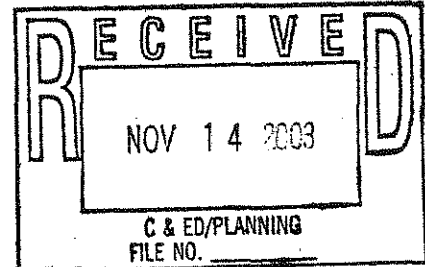


MODESTO CITY SCHOOLS

Planning and Research
(209) 576-4032/Fax 576-4879

426 Locust Street, Modesto, CA 95351
Email: meredith.b@monet.k12.ca.us

November 05, 2003



Patrick Kelley
Principal Planner
Community & Economic Development Department
City of Modesto
P.O. Box 642
Modesto, CA 95353

Re: Draft Mitigated Negative Declaration for the Fairview Village Community Facilities District No. 2003-01.

Dear Mr. Kelley:

Modesto City Schools has no opposition to the above referenced Initial Study and Draft Mitigated Negative Declaration addressing the impacts of a proposed formation of a Community Facilities District No. 2003-1 to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the Galas Brother Subdivision.

Modesto City Schools, the Galas's (Galas Brothers, West Port Landing), and Darrell J. Leamon (West Port Landing #1 and #2) each entered into a mitigation agreement in October 1997. The agreement calls for payment to the District of \$8,643 (K-8 = \$5,060 and 9-12 = \$3,583) for each residential unit built. This amount is adjusted annually for inflation. The mitigation agreement is binding on the land and successors in interest.] G:

Regarding the remaining land in the Fairview Village Specific Plan: To the extent allowed by state law, annexation to the appropriate schools community facilities district will be required as a condition of final map approval. If this requirement cannot be enforced due to the status of state law, then prior to issuance of the first building permit or final map approval, whichever is earlier, 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.] G:

Please feel free to contact me at (209) 576-4032 should you have any questions on this response.

Sincerely,

Becky M. Meredith
Director, Planning and Research

RESPONSE TO LETTER "G", RECEIVED NOVEMBER 12, 2003
Modesto City Schools

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 2 instances of comments on the document regarding mitigation of project school district impacts. Where applicable, the document has been revised to clarify the Schools Section discussion and respond to the comments as outlined below:

- G 1. Payment of appropriate school district facilities impact fees is required as a precondition to development by the City's General Plan. The developer must provide proof of payment of fees in order to proceed with obtaining building permits. No new issues raised by comment, no revisions to the document are necessary.
- G 2. The condition of development cited is required by the City's General Plan policies. The City will continue to coordinate with the affected school district(s) to determine whether the project's impacts on school capital facilities if fully mitigated prior to approving development. No new issues raised, no revisions to the document are necessary.

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 (1976 E. CHARTER WAY)
 STOCKTON, CA 95201
 TTY: California Relay Service (800) 735-2929
 PHONE (209) 941-1921
 FAX (209) 948-7194



*Flex your power!
 Be energy efficient!*

November 7, 2003

10-STA-99-PM 13.263

Initial Study & Draft Mitigated Neg Dec
 Parkview Village Community Facilities
 District No. 2003-1
 SCH # 2003102055

Mr. Patrick Kelly
 City of Modesto
 Planning and Community Development
 1010 Tenth Street, Suite 3400
 Modesto, CA 95354

Dear Mr. Kelly:

Thank you for the opportunity to review the Fairview Village Community Facilities District No. 2003-1 application. The proposed project is to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the 81.66 acre Galas Brothers subdivisions, a 383 lot residential subdivision in southwest Modesto Urban Area, south side of Hatch Road and east of Carpenter Road.

I have reviewed the proposed project and circulated it with the various Caltrans departments and have the following comments based on the additional data submitted from previous submissions:

TRAFFIC OPERATIONS:

- Collect Impact fees towards future improvements at the following intersections:
 - State Route 99 and Crows Landing Road and Hatch Road.
 - State Route 132 and Carpenter Road.

Please forward all Final Conditions of Approval including any mitigation measures that are being proposed as well as any other documents and reports (i.e. all forms of environmental documents, Traffic Impact Study Reports, site and location maps, etc) on this proposed project for our review, comment, and records. If you are aware of any controversy regarding any of our requirements, please contact us as soon as possible so we may work together to resolve them before submittal to your Board.

Mr. Patrick Kelly
November 7, 2003
Page 2

If you have any questions or would like to discuss our comments in more detail, please contact David Cooper at (209) 948-7190 (e-mail: david_cooper@dot.ca.gov) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,

A handwritten signature in cursive script that reads "David Cooper". Below the signature, there are initials "RW" written in a smaller, less legible cursive.

TOM DUMAS, Chief
Office of Intermodal Planning

c: State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

RESPONSE TO LETTER "H", RECEIVED NOVEMBER 7, 2003
State Department of Transportation – CALTrans District 10

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 2 instances of comments on the document regarding mitigation of project traffic impacts. Where applicable, the document has been revised to clarify the Transportation and Circulation discussion and respond to the comments as outlined below:

H 1. Traffic Operations.

The letter indicates that for the development associated with the Fairview Village CFD the City should "Collect Impact fees towards future improvements at the following intersections:

- State Route 99 and Crows Landing Road and Hatch Road
- State Route 132 and Carpenter Road

State Route 99 and Crows Landing Road and Hatch Road:

The City of Modesto's Capital Facilities Fee (CFF) program does not include a fee component for improvements to the two State Route 99 interchanges listed. The CFF program is based on the City's General Plan Traffic Impact Model. The model shows these two interchanges are not as impacted as the Hammet, Kiernan, Pelandale, Beckwith, and Briggsmore interchanges at buildout year 2025. The CFF program does contribute funding to the improvement of these more impacted interchanges. More specifically, there is a project adjacent the 7th and Hatch road intersection included in the CFF program to upgrade facilities serving that interchange.

State Route 132 and Carpenter Road:

The City's Capital Facilities Fee (CFF) would be collected at Building Permit for all proposed development within the Fairview Village CFD area (Fairview Village Specific Plan). The CFF program includes \$ 24,000,000 in impact fees which will be collected towards the construction of SR132 from SR99 to Morse (City of Modesto, Capital Facility Fee, item No. 257, Street Improvements Projects Summary). This segment includes State Route 132 and Carpenter Road intersection improvements.

H 2. Forward all Applicable Project Materials

The applicable documents relating to this proposal include:

- Fairview Village CFD 2003-1 Final Mitigated Declaration
- Fairview Village Specific Plan (adopted December 1995)
- Fairview Village Focused EIR, including traffic study (certified December 1995)
- General Plan Master EIR, including updated traffic model
- Galas Brothers subdivision Map (approved 1997, included referral to DOT)
- Engineers report, Fairview Village Community Facilities District

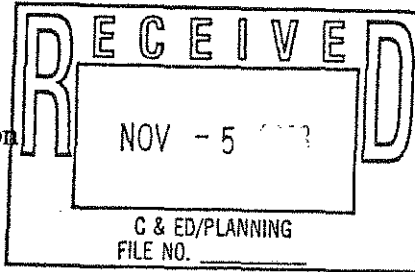
If your agency does not have any of these documents, please contact me at 577-5280 and we will have copies provided to you or go to the City's Community and Economic Development Department web site at www.modesto.gov for the Specific Plan, General Plan and General Plan Master EIR documents.



I

City of Ceres • City of Hughson • City of Modesto • City of Newman • City of Oakdale • City of Patterson
City of Riverbank • City of Turlock • City of Waterford • County of Stanislaus

Mr. Patrick Kelly
City of Modesto-Planning Division
Tenth Street Place/Third Floor
P.O. Box 642
Modesto, CA 95353



October 31, 2003

Re: Draft Mitigated Negative Declaration for the Fairview Village Community Facilities District

Dear Mr. Kelly:

Thank you for giving the Stanislaus Council of Governments (StanCOG) the opportunity to review and comment on the proposed project referenced above (2003-01). The proposed project is to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the Galas Brothers subdivision. The project location is in the southwest Modesto Urban area, on the south side of Hatch Road, east of Carpenter Road.

As the Regional Transportation Planning Agency for Stanislaus County, StanCOG is concerned with impacts to the regional roadway system. One of StanCOG's policies, identified in its Regional Transportation Plan is, "To ensure that the regional transportation system operates efficiently to reduce congestion and improve mobility for people and goods." The Draft Initial Study, page 8, **Traffic and Circulation**, states there will be no impacts to the city roadway system as a result of the proposed development, with reference to the Modesto General Plan and Fairview Village Specific Plan. In addition, the project will contribute to Modesto's Capital Facility Fee (CFF) Program, which includes improvements to Hatch Road. However, the initial study makes no reference to the regional road network.

I1

According to the Fairview Village Specific Plan, page 2, Fairview Village is a proposed planned community for approximately 5000 people, to include approximately 2250 homes. This equates to over 2,000 peak hour trips and 20,000 daily trips at buildout. It is a logical assumption a substantial percentage of these trips will utilize Carpenter Road north to State Route (SR) 132. In fact, StanCOG's regional model forecasts Carpenter Road adjacent to and north of the proposed project to be Level of Service (LOS) F in 2025. The Specific Plan, page 36, identifies traffic impact mitigation measures for buildout of subareas A and B. This mitigation includes improvements to the intersections of Hatch Road and Robertson Road with Carpenter Road. However, no improvements are included for the intersection of Carpenter and Whitmore Avenue, the Carpenter Road bridge over the Tuolumne River (currently 2 lanes), or to the future widening of Carpenter Road itself, to accommodate future traffic, which is identified in StanCOG's regional expressway system as a future six lane facility from Hatch to SR 132.

I2



*City of Ceres • City of Hughson • City of Modesto • City of Newman • City of Oakdale • City of Patterson
City of Riverbank • City of Turlock • City of Waterford • County of Stanislaus*

With this in mind, StanCOG requests the draft initial study and associated CFD be revised to include the regional roadway network impacted by this proposal and the project to pay its “fair share” to the county’s CFF program based upon the project’s contribution to the regional facilities.

13

Should you have any questions or comments pertaining to StanCOG’s requests, please feel free to contact my staff at (209) 558-4847 or e-mail Mike Higgins at mhiggins@stancog.org.

Sincerely,

Laurie Barton
Deputy Director

Cc: Raul Mendez
Senior management Consultant
Chief Executive Office
1010 10th Street, Suite 6800
Modesto, CA 95354

David Cooper
Transportation Planning
Caltrans, District 10
P.O. Box 2048
Stockton, CA 95201

RESPONSE TO LETTER "I", RECEIVED NOVEMBER 5, 2003
Stanislaus Council of Governments

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 3 instances of comments on the document regarding mitigation of project regional roadway impacts. Where applicable, the document has been revised to clarify the Traffic and Circulation discussion and respond to the comments as outlined below:

- I 1. The Draft Initial Study/Mitigated Negative Declaration compares the impacts of the proposed project to that analyzed by the General Plan Master EIR traffic analysis – note that each numbered section of the Initial Study/Mitigated Negative Declaration begins with the statement: "Compared to the Master EIR certified for the Modesto Urban Area General Plan,.... will the project result in increased impacts to..." Pursuant to CEQA section 21157.1 it was meant to indicate that there will be no new additional impacts that were not already identified by that previous analysis. It does not mean that there will be no impacts. Mitigation measures for those previously identified traffic impacts include regional roadway improvements that will be funded in large part by the City's CFF Program. No new issue raised, no revisions to the document are needed.
- I 2. The City's CFF Program includes collection of developer impact fees that include \$2.3 million of an estimated total cost of \$2.9 million for the Carpenter/Whitmore intersection. The CFF program provides \$9.6 million of the total estimated \$ 10.2 million cost of improvements, including \$5.0 million for the widening of the Carpenter Rd. bridge. Also, there are funds to widen Carpenter Road to expressway standards all the way north to Highway 132 and beyond. Between Tuolumne River to Highway 132 there is \$42.4 million included in the CFF program for this widening. No new issue raised, no revisions to the document are needed.
- I 3. The City of Modesto CFF Program provides a mechanism that requires development in the developing City portion of the General Plan Area, including the Fairview Village CFD No. 2003-1 area, to pay their fair share of improvements including a portion of the regional roadway system costs. Funds are collected for the County's Public Facilities Fee (PFF) program within the City's Sphere of Influence as permits are issued for development through an existing arrangement with Stanislaus County. Stanislaus County has determined what the "fair share" amount is for the various types of land uses covered by that PFF Program. No new issue raised, no revisions to the document are needed.

October 30, 2003

Brad Kilger – City of Modesto
C&ED/Planning Division
Tenth Street Place/Third Floor
P.O. Box 642
Modesto, CA 95353-0642



Regarding: Draft Mitigated Negative Declaration for the Fairview Village Community
Facilities District No. 2003-01

Thank you for allowing the District to comment on this referral received on 10/15/03 with a due date of 11/12/03. In order to reply in a timely manner, please provide a minimum of 10 working days review period. If you have any questions, please contact me at 526-7433. Below are our recommendations for this project.

ELECTRICAL

- ♦ The proposed project is outside the Modesto Irrigation District's electric service area. This project does not impact the District's distribution facilities or the District's 69kV or 230kV transmission facilities. Therefore the Electrical Division has no requirements on this project at this time.

IRRIGATION

- This project is located outside MID service area. This project needs to be reviewed by Turlock Irrigation District.

DOMESTIC WATER

- No comments at this time

10/30/03
Date

Celia Aceves
Risk and Property Analyst

RESPONSE TO LETTER "J", RECEIVED NOVEMBER 3, 2003
Modesto Irrigation District

Proposed Changes in the Negative Declaration Resulting from this Letter

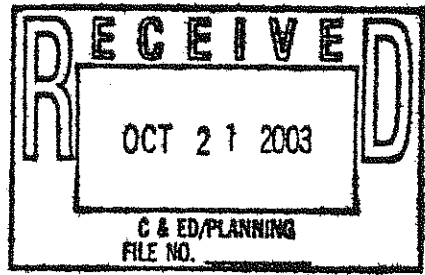
The letter indicated the project site is outside the district's service area and provided no instances for comments on the document regarding mitigation of project Utilities impacts. Therefore, there were no revisions to the document resulting from these comments. No changes are necessary. No new environmental issues were raised by these comments.

K.



S T A N I S L A U S
LOCAL AGENCY FORMATION COMMISSION
1010 TENTH STREET, 3rd Floor MODESTO, CALIFORNIA 95304
PHONE: (209) 525-7660 FAX: (209) 525-7643

October 21, 2003



TO: Patrick Kelly, Principal Planner
FROM: Fran Sutton-Berardi, Executive Officer *FSB*
SUBJECT: DRAFT MITIGATED NEGATIVE DECLARATION FOR THE FAIRVIEW
VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-01

I have reviewed the above proposal and have no comments on the proposed Mitigated Negative Declaration for the formation of the financing district for the Fairview Village Specific Plan Area.

RESPONSE TO LETTER "K", RECEIVED OCTOBER 21, 2003
Local Agency Formation Commission

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter indicated no comments on the document regarding mitigation of project impacts. No changes are necessary. No new environmental issues were raised by these comments.

XXIII. DETERMINATION

Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

- This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the Master EIR. This additional significant effect is potential impacts to Water Supply, Water Quality and Hazardous Materials.
- Feasible mitigation measures will be incorporated to revise the subsequent project before the Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

The City's Engineering and Transportation Department and Operations and Maintenance have reviewed the proposed infrastructure contained in Fairview Village CFD No. 2003-1, specifically, water supply, water well, water quality, hazardous materials impacts and have determined the following mitigation measures will address the identified impacts and reduce impacts to the level required by the applicable standards:

1. New Impact Identified by Initial Study/Mitigated Negative Declaration for Water Supplies

MITIGATION MEASURE – WATER SUPPLY

The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant Impact with Mitigation Incorporated any potential impacts for effects to Water Supplies.

The project requires the installation of a 500,000 gallon storage tank.

2. New Impact Identified by Initial Study/Mitigated Negative Declaration for Water Quality

Water Quality - Violation of water quality standards for Nitrates, Uranium, Arsenic, Silvex, and 2,4-DB.

MITIGATION MEASURE – WATER QUALITY – 1:

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Nitrates:

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal, (4) Algal Growth and Harvesting and Disposal, (5) Dual Water Supply and Blending, (6) Combinations of Ozonation, Sand Filtration, and Granular Activated Carbon Filtration, and (7) Biological Denitrification – or the functional equivalent.

Each of these various methods of treatment have been shown to reduce nitrate in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 2 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Uranium:..

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha levels – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.

MITIGATION MEASURE – WATER QUALITY – 3 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Arsenic:

Mitigation Measure

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal, (4) Activated Alumina, Adsorption (5) Dual Water Supply and Blending, (6) Adsorption onto granular ferric hydroxide media (7) Adsorption onto granular ferric oxide media, (8) Oxidation and filtration using anthracite coal and or Greensand media and (9) Zirconium media adsorption/filtration. Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 4:

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Silvex and 2,4-DB

Mitigation Measure:

Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3). Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURES – WATER QUALITY 5

Potential treatment measures include: (1). Oxidation and filtration,, (2) Reverse Osmosis (3) Greensand Filtration.

Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 6

The following project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of less than Significant with Mitigation Incorporated any potential for effects from runoff water:

The storm water basin shall incorporate current City adopted stormwater quality control measures described in the Guidance Manual for New Development Stormwater Quality Controls measures dated January 2001 (Guidance Manual for New Development Stormwater Quality Control Measures).

3. *New Impact Identified by Initial Study/Mitigated Negative Declaration for Hazardous Materials*

Potential exposure of public to toxic materials from well-head treatment processes

MITIGATION MEASURE – HAZARDOUS MATERIALS:

The following new project specific Hazardous Materials mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Hazardous Materials:

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.

Previously Identified Impacts and Mitigation identified in General Plan Master EIR and Focused EIR for the Fairview Village Specific Plan :

The following impacts were identified in the General Plan Master EIR and Focused EIR for the Fairview Village Specific Plan that are applicable to the construction of the facilities proposed to be financed by the Fairview Village CFD No. 2003-1:

Air Quality:

Construction- related impacts

Noise

Construction-related impacts

Loss of Sensitive Wildlife and Habitat:

Potential for special status species on-site, requires site survey prior to construction

Archaeological and Historic Resources:

Resources unearthed during Construction would require mitigation

Previously Identified Mitigation Measures Applied to Project:

Mitigation measures are hereby applied to the Fairview Village CFD No. 2003-1 project from the General Plan Master EIR and Fairview Village Specific Plan Focused EIR to reduced the impacts to an acceptable level: the full text of these measures are contained in the attached Mitigation Monitoring Program, Exhibit F.



There is no substantial evidence in light of the whole record before the public agency that the projects, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).



Based on the above-referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed Fairview Village CFD No. 2003-1.



I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.



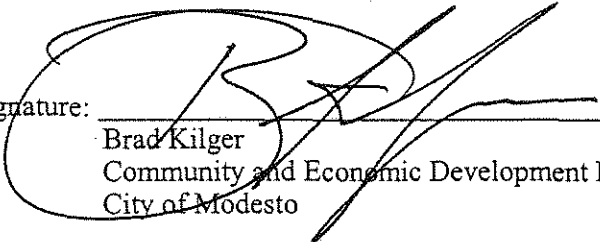
I further find that the cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan. This project proposes creation of a financing mechanism for the construction of infrastructure to serve a Specific Plan area and specifically for the construction of specific infrastructure to serve the Galas Brothers approved Vesting Tentative Subdivision map. for uses generally consistent with that analyzed in the General Plan Master EIR and set forth in the Modesto Urban Area General Plan. Based on the implementation of the "Fairview Village CFD 2003-1" prepared for adoption prior to the recordation of the Final subdivision map, the City's Engineering and Transportation Department and Operations and Maintenance has determined that the impacts from this project with mitigation applied will achieve the level of service consistent with the Modesto Urban Area

General Plan and Master EIR. As such, this project would generate no additional cumulative impacts that were not previously addressed in the Master EIR. All appropriate mitigation measures from the Master EIR have been incorporated into the project, and no further evaluation of cumulative impacts is required as this project generates no significant cumulative impact.



As required by CEQA Section 21081.6 et seq., a mitigation monitoring program (Exhibit " E ") will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6(b)).

Signature: _____


Brad Kilger
Community and Economic Development Department Director
City of Modesto


Date: _____

12/2/03

Applicants Concurrence

In accordance with Section 15070 (b) (1) of the CEQA Guidelines, we hereby consent to the incorporation of the above Mitigation Measures which are also contained in Exhibit B of the Fairview Village CFD No. 2003-1 project.


Signature _____


Glen Lewis
Engineering and Transportation Department Director
City of Modesto

Date _____

12/2/03

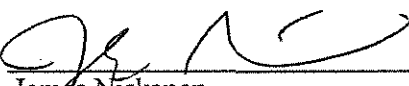
Signature _____


Peter Cowles
Operation and Maintenance Department Director
City of Modesto

Date _____

12-2-03

Signature _____


James Niskanen
Parks Recreation and Neighborhoods Department Director
City of Modesto

Date _____

12-2-03

EXHIBIT " A "

Project Location Map

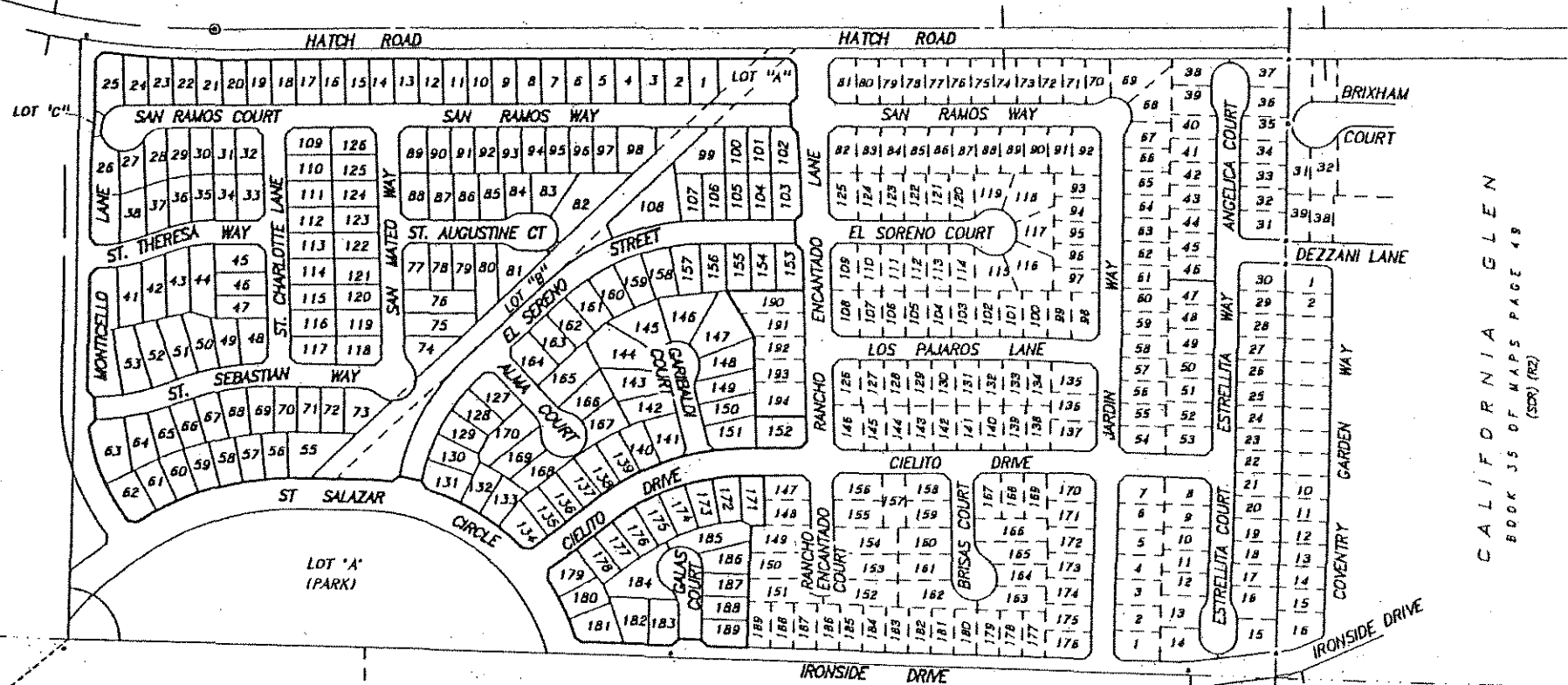
EXHIBIT "B"

**Galas Brothers Subdivision Map
Units 1 & 2**

GALAS BROTHERS SUBDIVISION

SCALE  NTS

PARCEL A
BOOK 42 OF PARCEL MAPS PAGE 2
(SDR) (R4)



CALIFORNIA GLEN
BOOK 35 OF MAPS PAGE 48
(SDR) (R2)

LOT 'D'
GIRASOL COURT
POK INDUCTION DISTRICT
LATERAL NO. 1

EXHIBIT "C"

Fairview Village CFD No. 2003-1

Partially Funded Infrastructure

FAIRVIEW VILLAGE CFD

Funding Source(s)

CAPITAL

MAINTENANCE

	CAPITAL	MAINTENANCE
WATER SYSTEM		
Water Well	(1) CFD & Water Zone 3.	CFD and rate base.
Distribution Pipe Lines	(1) CFD & Water Zone 3.	CFD and rate base.
Well-head Treatment	CFD	CFD and rate base.
Surface water pipe line	CFD	CFD and rate base.
Water tank and booster pumps	CFD	CFD and rate base.
WASTEWATER SYSTEM		
Lift Station	CFD	CFD and rate base.
Force Main	CFD	CFD and rate base.
STORM DRAIN SYSTEM		
Lift Station	CFD	CFD and rate base.
Force Main to Basin	CFD	CFD and rate base.
Gravity Line to Outfall Line	CFD	CFD and rate base.
PORTION OF CENTRAL NEIGHBORHOOD PARK		
Park/Basin, bike path and lighting	CFF, developer contribution (no CFD funds)	CFD
LANDSCAPING/MEDIAN ALONG CARPENTER ROAD		
Parkways	(No CFD funds)	CFD

EXHIBIT "D"

Community Facilities District Boundary Map

EXHIBIT " E "

Galas Brothers Subdivision

and

Future Annexation Area

Fairview Village CFD No. 2003-1

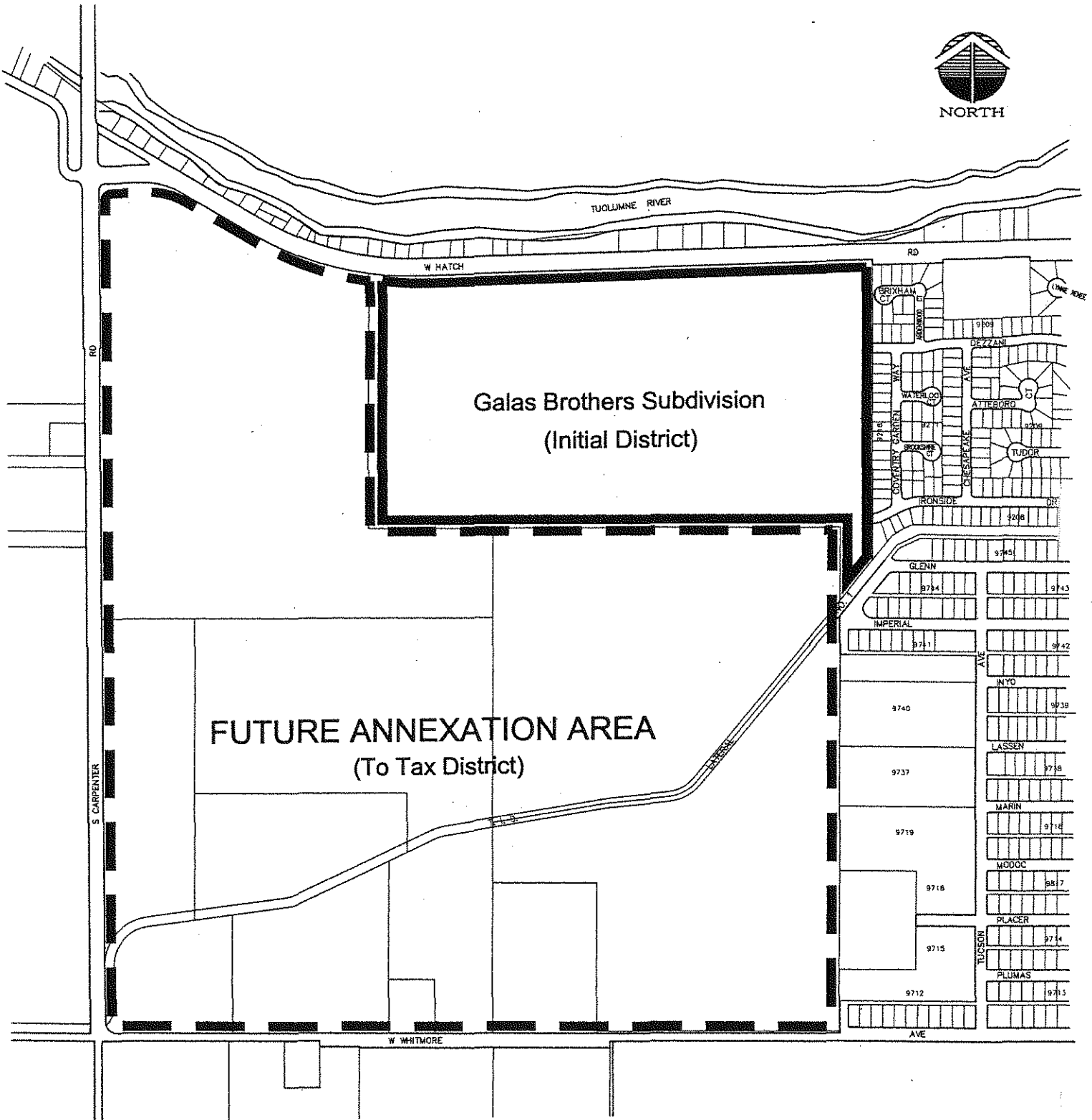


EXHIBIT F

Mitigation Monitoring Plan

**MITIGATION MONITORING AND REPORTING PROGRAM FOR
FAIRVIEW VILLAGE CFD 2003-1
(Pursuant to Mitigated Negative Declaration EA C&ED No. 2003- 86)**

1.0 INTRODUCTION

This mitigation and monitoring program has been prepared by the City of Modesto for the Fairview Village CFD No. 2003-1. Public Resources Code (CEQA) Section 21081.6 requires public agencies to adopt a mitigation reporting or monitoring program when adopting a Mitigated Negative Declaration. Monitoring programs are designed to ensure that all mitigation measures described in the Negative Declaration are carried out.

This program includes new or additional mitigation measures that were identified by the analysis contained in this Initial Study/Mitigated Negative Declaration for impacts to: Water Supplies, Water Quality and Hazardous Materials. The program also includes mitigation measures that were previously identified by the analysis contained in the General Plan Master EIR, and Fairview Village Focused EIR for impacts to: Air Quality, Noise, Sensitive Wildlife and Plant Habitat, and Archaeology and Historic Resources. These measures are listed below.

2.0 SCOPE

The program described below applies to all mitigation measures described in the Draft Initial Study/proposed Mitigated Negative Declaration, dated October 10, 2003, prepared for the project. The components of project mitigation were reviewed and approved by the City of Modesto's Recreation and Neighborhoods, Engineering and Transportation and Operations and Maintenance staff and are contained in the document titled "Fairview Village CFD No. 2003-1" that will be adopted by the City Council.

3.0 MITIGATION MEASURES

AIR QUALITY:

"a. All applicable sections of SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10 (Rules 8011 through 8081) shall be applied to the project including Rule 8021 Section 6.3 Dust Control Plan. In addition, 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, these 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%).

"Pursuant to San Joaquin Valley Air Pollution District Rule 4103, agricultural material may not be burned if the land use is converting from agricultural to non-agricultural purposes."

NOISE:

Modesto Noise Ordinance. 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.):

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 General Plan policies listed below into the project.

Policy VII-G.3[a] 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].

INCREASED DEMAND FOR WATER SUPPLIES:

The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than significant impact with mitigation incorporated any potential impacts for effects to Water Supplies.

The project requires the installation of a 500,000 gallon storage tank. Measures to mitigate water quality are outlined in Section IX – Drainage, Flooding and Water Quality.

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT:

Policy VII-E.3[a] For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure 7-1 in the Final Master EIR. (Riparian Corridor Diagram)

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by DFG and USFWS. The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes.

Policy VII-E.3[b] All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to the long-term conservation of the species and ecosystems on which they depend.

Policy VII-E.3[c] Where formally listed species are determined present, consultation shall be carried out with the DFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where candidate or other special status category of species are involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

ARCHAEOLOGY AND HISTORIC:

In the event of discovery or recognition of any human remains during excavation or construction, Appendix K requires that there shall be not further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

The coroner the County in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required, and

If remains are of Native American origin,

The descendants from the deceased Native Americans have made a recommendation to the landowners or the person responsible for the excavation work, for means of retreating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

Further, where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

The Native American Heritage Commission is unable to identify a descendant;

The descendant identified fails to make a recommendation; or

The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

If the human remains are discovered before the City has finished the CEQA process, the City shall work with the Native American Heritage Commission and the applicant to develop an agreement for treating or disposing, with appropriate dignity, of the human remains and any associated grave goods. Action implementing such an agreement is expect from:

The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (health and Safety Code Section 7050.5).

The requirements of CEQA and the Coastal Act.

WATER QUALITY:

When construction of a water well facility is proposed, the following language shall be included in the subdivision improvement plans document:

MITIGATION MEASURE – WATER QUALITY – 1 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Nitrates:

Potential treatment measures include:

- (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal, (4) Algal Growth and Harvesting and Disposal, (5) Dual Water Supply and Blending, (6) Combinations of Ozonation, Sand Filtration, and Granular Activated Carbon Filtration, and (7) Biological Denitrification – or the functional equivalent.

Each of these various methods of treatment have been shown to reduce nitrate in water to acceptable levels. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 2 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Uranium:

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha level – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.

MITIGATION MEASURE – WATER QUALITY – 3 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Arsenic:

Potential Mitigation Measure:

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrodialysis/Electrodialysis Reversal, (4) Activated Alumina, Adsorption (5) Dual Water Supply and Blending, (6) Adsorption onto granular ferric hydroxide media(7) Adsorption onto granular ferric oxide media, (8) Oxidation and filtration using anthracite coal and or Greensand media and (9) Zirconium media adsorption/filtration..

Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 4:

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Silvex and 2,4-DB:

Potential Mitigation Measure:

Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3). Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall

be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURES – WATER QUALITY – 5:

Potential treatment measures include: (1). Oxidation and filtration,, (2) Reverse Osmosis (3) Greensand Filtration.

Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY –6:

The storm water basin shall incorporate current City adopted stormwater quality control measures described in the Guidance Manual for New Development Stormwater Quality Controls measures dated January 2001.

Implementation for all Water Quality Mitigation Measures:

When the development of water well facilities is proposed, the City shall assure implementation of these mitigation measures at a level and timing consistent with the Mitigated Negative Declaration.

HAZARDOUS MATERIALS:

Water well wellhead treatment facilities shall incorporate the following measures:

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.

Responsible Agency for all Fairview Village CFD No. 2003-1 Mitigation Measures:

City of Modesto, Parks, Recreation and Neighborhoods
City of Modesto, Operations and Maintenance Department
City of Modesto, Engineering and Transportation Department

Responsible Agency for all General Plan MEIR Mitigation Measures:

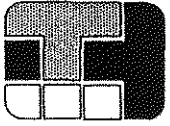
City of Modesto Community and Economic Development Department

Implementation for all General Plan MEIR Mitigation Measures:

At the appropriate time in the process, generally at the Subdivision Improvements Plan, the City shall verify compliance with these measures.

EXHIBIT "G"

100-Year Floodway Map



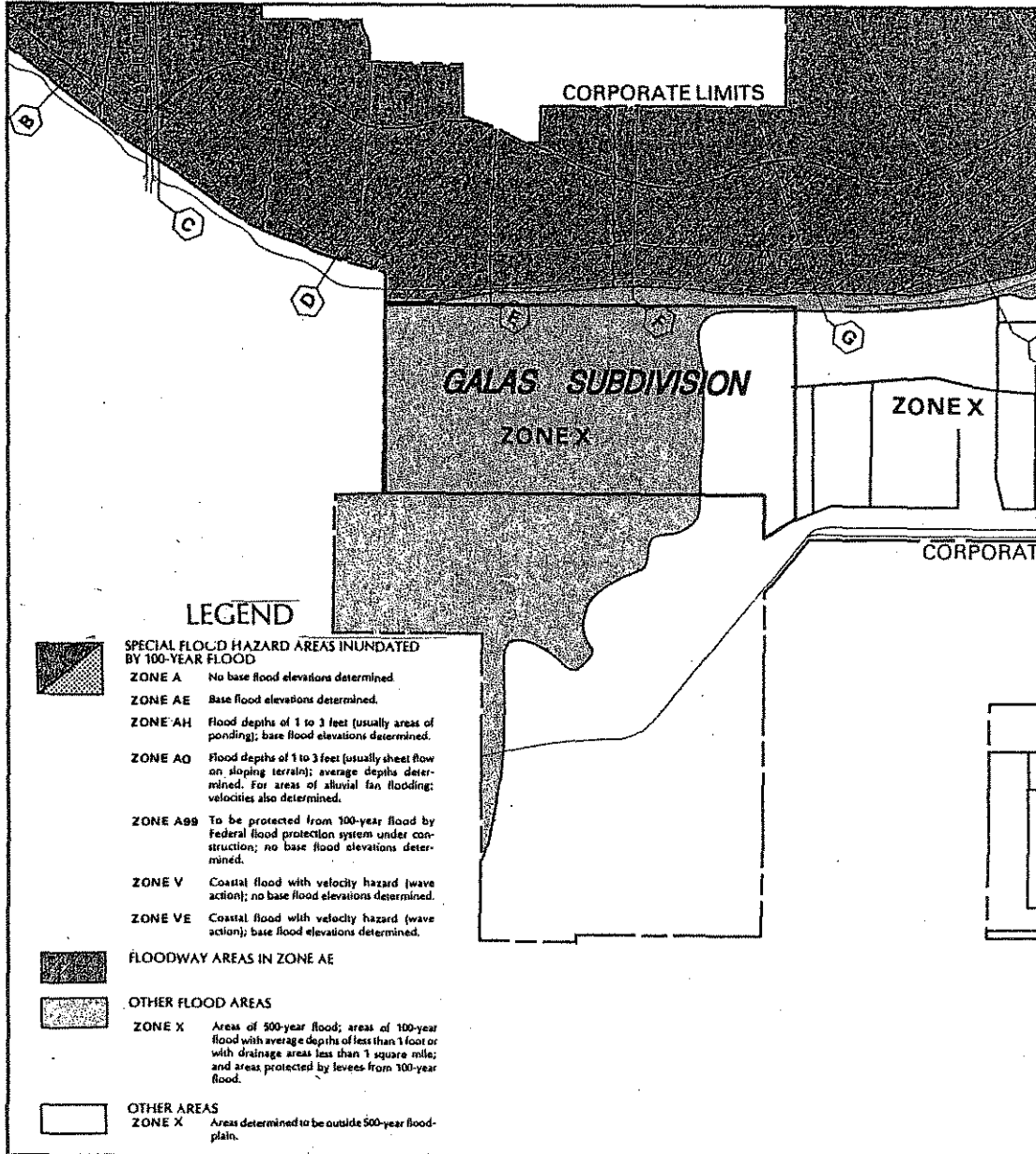
THOMPSON-HYSELL ENGINEERS

A DIVISION OF THE KEITH COMPANIES
1016 12TH STREET, MODESTO, CA 95354
(209) 521-8986 FAX (209) 521-9045

Galas 100 Year Flood Plain

Modesto, California

BY: SG
DATE: 12/02/2003
SHEET: 1 OF 1
S:\MODESTO\12279300\EXHIBITS\1\GALAS_FLOOD_PLAIN.DWG



LEGEND



SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD

- ZONE A No base flood elevations determined.
- ZONE AE Base flood elevations determined.
- ZONE AH Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined.
- ZONE AO Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding; velocities also determined.
- ZONE A99 To be protected from 100-year flood by Federal flood protection system under construction; no base flood elevations determined.
- ZONE V Coastal flood with velocity hazard (wave action); no base flood elevations determined.
- ZONE VE Coastal flood with velocity hazard (wave action); base flood elevations determined.



FLOODWAY AREAS IN ZONE AE



OTHER FLOOD AREAS

- ZONE X Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

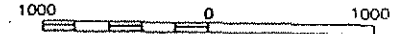


OTHER AREAS

- ZONE X Areas determined to be outside 500-year flood-plain.



APPROXIMATE SCALE IN FEET



NATIONAL FLOOD INSURANCE PROGRAM

FIRM FLOOD INSURANCE RATE MAP

CITY OF
MODESTO,
CALIFORNIA
STANISLAUS COUNTY

PANEL 15 OF 20
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
060387 0015 D

MAP REVISED:
MAY 7, 2001



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

EXHIBIT "H"

List of Recipients

List of Recipients

George Day – Central Valley Regional Water Quality Control Board
Dan Applebee – Department of Fish & Game / Environmental Services
Joe Spanos – Division of Drinking Water & Environmental Management
Nadell Gayou, Chief – Department of Water Resources
Terry Roberts – Governor's Office of Planning and Research
Greg Frantz – State Water Board / Division Water Quality
Central California Information Center -Turlock Cal State University Stanislaus Department
Northern Region Environmental Planner – San Joaquin Valley Unified Air Pollution Control District
Gary Dickson, Executive Director – STANCOG
Randy Hatch, Planning Director – City of Ceres
Director, Stanislaus County Department of Environmental Resources – Environmental Health Division
Director, Stanislaus County Department of Environmental Resources – Department of Parks
Environmental Resources Department Stanislaus County
Fran Sutton Berardi – LAFCO Stanislaus County
Reference Department – Stanislaus County Library
Richard Jantz – Stanislaus County / Environmental RVW Committee / Stanislaus Co. CAO.
Keith C. Munroe – STANCO Department of Environmental Resources
Ron Freitas, Director - Stanislaus County Planning & Community Development Department
George Stillman, Director – Stanislaus County Department of Public Works
Librarian – Stanislaus County Library Reference Department
Dr. Pamela Fisher – YCCD
Glen Lewis – E&T / Administration
Becky Meredith, Director – Modesto City Schools
Cable One
Allen Short, General Manager – Modesto Irrigation District
Sterling M. Fountain – Modesto Irrigation District
Pacific Bell Telephone Company
Manager – PG & E
Chris Kiriakou – Power Resource Department, Turlock Irrigation District
Paul Elias – Turlock Irrigation District
Brad Kilger – C & ED Director
Patrick Kelly – C & ED Principal Planner
Roy Wasden – Chief of Police
Alison Baratt-Green – City Attorney's Office
Vicky Dion – City Attorney's Office
George Britton – City Manager
Craig Scott – E & T
Will Wong – E & T
Firoz Vohra – E & T / Administration
Jack Bond – E & T Engineering
Jim Miguel – Fire Chief
Peter Cowles – O & M
Robert Howard – O & M
Blair Bradley – O & M / Hazardous Materials Specialist
Doug Critchfield – PR & N
James Niskanen – R & N
Steve Nish
George Osner

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-660**

A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1 (FAIRVIEW VILLAGE), AUTHORIZING THE LEVY OF SPECIAL TAXES THEREIN AND ESTABLISHING AN ANNUAL APPROPRIATIONS LIMIT

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc. (the "Petitioner") this City Council adopted a resolution (the "Resolution of Intention") stating its intention to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed on Appendix A to the Resolution of Intention, and all appurtenances and appurtenant work associated with the foregoing (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and

Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses"); all as more fully described in said resolution; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$25,000,000; and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities as required by Section 53321.5 of the Government Code (the "Report"); and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special taxes to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed special taxes to be levied within the Community

Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all matters relating to the formation of the Community Facilities District, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, there have been fewer than twelve registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in Attachment A hereto, (ii) the issuance of bonds to pay for the Facilities and the Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated "City of Modesto Community Facilities District No. 2003-1 (Fairview Village)" is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District

were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District are established as shown on the map designated "Boundary Map of Proposed City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 3, at Page 83, as Instrument No. 03-0190347-00.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the "Facilities" in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the "Services").

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in Attachment A hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iv) the other Incidental Expenses, including the costs of forming the Community Facilities District and administering the

levy and collection of the special tax and all other administrative costs of the special tax levy and bond issues. The City expects to incur, and in certain cases has already incurred, incidental expenses in connection with the creation of the Community Facilities District, the issuance of bonds, the levying and collecting of the special taxes, the provision of the Services, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District. The rate and method of apportionment of special tax is described in detail on **Attachment A** hereto and incorporated herein by this reference, and the City Council hereby finds that Attachment A contains sufficient detail to allow each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Report, which is incorporated by reference herein, the special taxes are based generally on area of each parcel of real property within the Community Facilities District (except to the extent that certain single family detached lots may be taxed at the same rate regardless of land area) and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor's parcel for a period not to extend beyond fiscal year 2050-51, and the Resolution of Intention is hereby amended to change the reference therein to the "2044-2045 tax year" to "fiscal year 2050-51." The special taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based upon the ownership of real property. Under no circumstances shall the special taxes against any parcel used for private residential purposes be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.

The City's District Administrator, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in Attachment A, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt in order to yield the required debt service payments on any outstanding bonds of the Community Facilities District or to prevent the Community Facilities District from defaulting on any of its other obligations or liabilities. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax attached hereto as Attachment A.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.

SECTION 8. It is hereby further determined that there will be no ad valorem property tax levied on property within the Community Facilities District for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District as are proposed to be provided by the Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, the Petitioner and other private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by it in creating the Community Facilities District. The City may enter into an agreement 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 value, or cost, whichever is less, of the work-in-kind, as determined by the City, with or without interest.

SECTION 10. Written protests against the establishment of the Community Facilities District have not been filed by one-half or more registered voters within the boundaries of the Community Facilities District or by the property owners of one-half (1/2) or more of the area of land within the Community Facilities District. The City Council hereby finds that the proposed special taxes have not been precluded by a majority protest pursuant to Section 53324 of the Act.

SECTION 11. The annual appropriations limit (as defined in Section 8(h) of Article XIII B of the California Constitution) of the Community Facilities District is hereby established at \$25,000,000.

SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Section 53351 of the Act. The language of the proposition to be placed on the ballot is attached hereto as **Attachment B**.

SECTION 13. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on

the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, 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:	Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino
Noes:	Councilmembers:	None
Absent:	Councilmembers	O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

ATTACHMENT A
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" 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. 2003-1, 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. 2003-1 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:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

"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: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, 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, costs associated with complying with any continuing disclosure requirements for the Bonds and 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 Tax.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

“Annual Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds, (ii) to create or replenish reserve funds, (iii) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“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.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

“Capitalized Interest” means funds in any capitalized interest account available to pay debt service on Bonds.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2003-1 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. 2003-1.

“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
- for Single Family Attached 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.

- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

“Development Plan” means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, 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.

“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 Annual Facilities Special Tax” means the greatest amount of Annual 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 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 Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

“One-Time Facilities Special Tax” means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

“One-Time Facilities Special Tax Requirement” means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

“Original Parcel” means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. 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.

“Other Property” means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and 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 Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and 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. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Attached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

“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 Unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax, the Annual 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.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 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. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

“Tax Zone” means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

“Tax Zone #1” means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

“Unit” means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

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. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor’s Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor’s Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

C. CALCULATING THE MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

1. Original Parcels

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

2. Successor Parcels

a. *All Successor Parcels are Single Family Detached Lots*

If the Parcels created by a recorded Subdivision Map are all 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 created by the subdivision:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by 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:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor 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 allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

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 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. Annual Facilities Special Tax

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually 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. 2003-1 and shall be collected as set forth in Section F below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities 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 Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the 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 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.

E. 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. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against,

or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

“Public Facilities Requirements” means either \$3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by 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 such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor's Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "*Remaining Facilities Amount*").
- Step 6.** Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall

be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "*Reserve Fund Credit*").

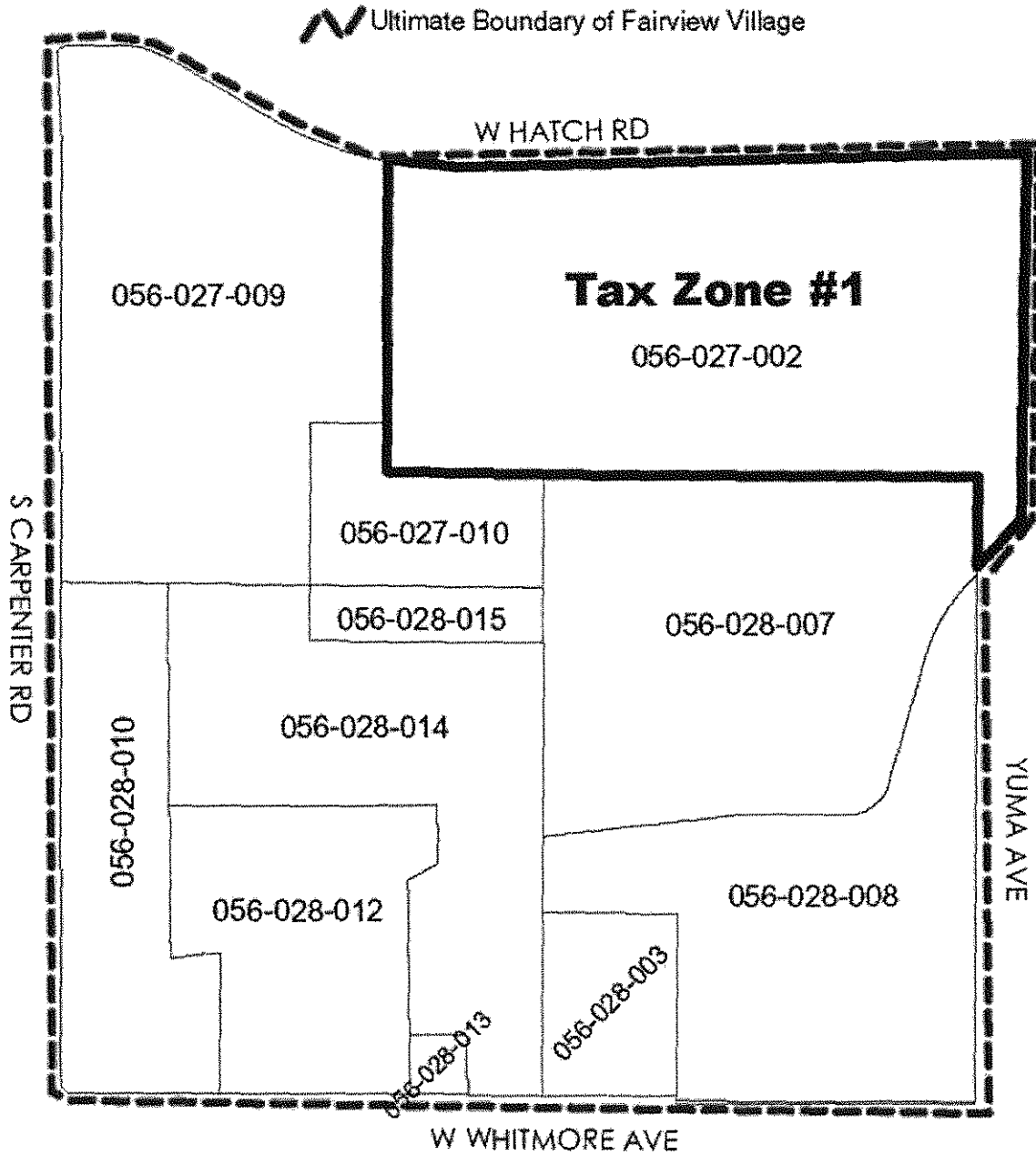
Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

I. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the 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 Tax.

ATTACHMENT 1
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



ATTACHMENT 2

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN
EACH TAX ZONE

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually 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.

ATTACHMENT B
BALLOT PROPOSITION
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)
SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES _____

NO _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-661**

**A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED
INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc., this City Council adopted a resolution stating its intention to form the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of said resolution, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system improvements, and bike trail improvements and all appurtenances and appurtenant work in connection with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses incurred and to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds and the establishment and replenishment of bond reserve and special

reserve funds (the "Incidental Expenses"), all as more fully described in said resolution;
and

WHEREAS, notice was published as required by law relative to the intention of the City Council to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$25,000,000 within the boundaries of the Community Facilities District; and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special tax to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness within the Community Facilities District, to declare the purpose for such indebtedness, and to authorize the submittal of a combined ballot proposition to the qualified electors of the Community Facilities District, being the land owners within the Community Facilities District, all as authorized and required by law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. In order to finance the Facilities and Incidental Expenses, it is necessary to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$25,000,000 within the Community Facilities District.

SECTION 3. The aforesaid bonded indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, expanding, improving or rehabilitating the Facilities and financing the Incidental Expenses.

SECTION 4. All of the property within the Community Facilities District, as established pursuant to the Resolution of Formation, with the exception of property exempted from the special tax pursuant to the provisions of the rate and method of apportionment of special tax attached to the Resolution of Formation, shall pay for the bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Formation.

SECTION 5. The maximum term of the bonds to be issued shall in no event exceed 40 years; and the bonds shall bear interest at rates (not in excess of the maximum rate permitted by law) determined at the time of sale thereof.

SECTION 6. An election is hereby called for the Community Facilities District on the proposition of incurring bonded indebtedness pursuant to Section 53351 of the Act

and shall be consolidated with the election on the propositions of levying the special taxes on the property within the Community Facilities District and establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment A.

SECTION 7. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above; and, pursuant to Section 53326 of the Government Code, each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

ATTACHMENT A
BALLOT PROPOSITION
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES _____

NO _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-662**

**A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW
VILLAGE)**

WHEREAS, on this date, this City Council adopted a resolution entitled “A Resolution Establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit” (the “Resolution of Formation”), which established the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”), authorized the levy of special taxes therein, and established an annual appropriations limit; and

WHEREAS, on this date, the City Council, acting as the legislative body of the Community Facilities District, also adopted a resolution entitled “A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village),” which declared the necessity to incur bonded indebtedness in the maximum amount of \$25,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, propositions to authorize the levy of special taxes within the Community Facilities District, to establish an appropriations limit of the Community Facilities District and to authorize the incurring of bonded indebtedness are to be submitted to the qualified electors of the Community Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”);

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. Pursuant to the Act the propositions to authorize the levy of special taxes within the Community Facilities District, establish an appropriations limit of the Community Facilities District and authorize the incurring of a bonded indebtedness shall be combined into one ballot proposition and submitted to the qualified electors of the Community Facilities District as provided herein.

SECTION 2. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 3. The date of the election shall be December 11, 2003, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on December 11, 2003; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.

SECTION 4. The form of the ballot for the election is attached hereto as Exhibit A and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 5. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on December 11, 2003 whether said ballots shall be personally delivered or received by mail.

SECTION 6. There is on file with the City Clerk a written instrument executed by the sole qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT A
OFFICIAL BALLOT
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

December 11, 2003

SPECIAL ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on December 11, 2003, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

INSTRUCTIONS TO VOTERS:

To vote on the measure, make a "+", "3", "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES _____

NO _____

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

[NAME]

By _____

Number of Votes: ____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-663**

**A RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION
AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW
VILLAGE)**

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on December 11, 2003 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the "Proposition") for (a) the authorization of bonds in a principal amount not to exceed \$25,000,000, (b) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (c) the establishment of an appropriations limit for the Community Facilities District; and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as Attachment "A";

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on December 11, 2003 on the Proposition were cast in favor of the Proposition, and the Proposition carried. The City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to issue, from time to time as it determines appropriate, bonds for the benefit of the Community Facilities District for the purposes set forth in the Proposition and to take the necessary steps to levy the special taxes authorized by the Proposition.

SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, 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: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City
Clerk

APPROVED AS TO FORM:

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

ATTACHMENT "A"

CERTIFICATE OF CITY CLERK
AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

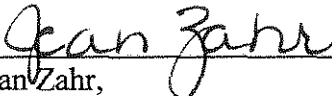
STATE OF CALIFORNIA)
) ss.
COUNTY OF STANISLAUS)

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). With my concurrence, the election was conducted on December 11, 2003. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to December 11, 2003 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: 82
NO: 0
TOTAL NUMBER OF VOTES CAST: 82

Dated this 11th day of December, 2003.



Jean Zahr,
City Clerk of the City of Modesto

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 664**

A RESOLUTION APPROVING A TEN-YEAR WATER SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND BASIN WATER FOR SERVICES AND LEASE OF EQUIPMENT RELATED TO THE REMOVAL OF NITRATES AT WELL SITES WITHIN THE GRAYSON COMMUNITY WATER SYSTEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto is the potable water provider for the community of Grayson, and

WHEREAS, there are only two wells sites serving this community and both require nitrate treatment to meet water quality standards, and

WHEREAS, the electro-dialysis treatment system currently in use has failed on a number of occasions and is considered unreliable, and

WHEREAS, the City of Modesto received a compliance order from the California Department of Health Services mandating that a new treatment system be obtained for the two wells, and

WHEREAS, an engineering contract was approved by the City Council on November 6, 2002, to evaluate treatment options, and

WHEREAS, this engineering contract is complete with a recommendation that Ion Exchange treatment be utilized, and

WHEREAS, it is the City's obligation to provide and maintain an adequate water supply to this area for public health and safety, and

WHEREAS, City staff has arranged for a long-term Water Services Agreement with Basin Water for an Ion Exchange unit for nitrate treatment, and

WHEREAS, the Agreement terms are considered acceptable to the City,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto it hereby approves a ten-year Water Services Agreement with Basin Water for services and lease of equipment related to the removal of nitrates at well sites within the Grayson Community Water System.

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 11th day of December, 2003, by Councilmember Frohman, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

ATTEST:


JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-665**

**A 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
9, 2003, AND DECLARING THE RESULTS OF SAID ELECTIONS FOR
COUNCILMEMBERS (RUN-OFF 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 4, 2003 a majority vote was not cast for Mayor to the City Council nor for Councilmember for Chair No. 1, and

WHEREAS, the two candidates receiving the highest number of votes for Mayor, Bev Finley and Jim Ridenour, and the two candidates receiving the highest number of votes for Councilmember Chair No. 1, Bob Dunbar and Dave Lopez, would have their names on the ballot for a run-off election to be held on Tuesday, December 9, 2003, and

WHEREAS, the Second Regular Municipal Election was held by mail ballot in the City of Modesto on Tuesday, December 9, 2003, to elect a Mayor to the City Council and a Councilmember to 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 16, 2003, 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:

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23rd of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO SECOND REGULAR MUNICIPAL ELECTION
December 9, 2003

I, Jean Zahr, 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 9, 2003. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Mayor, Modesto City Council		
Jim Ridenour	17,790	52.9%
Bev Finley	15,814	47.0%
Chair 1, Modesto City Council		
Bob Dunbar	18,052	55.3%
Dave Lopez	14,546	44.6%

VOTER TURNOUT:

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
City of Modesto Council Seats	91,545	33,836	36.9%

JEAN ZAHR
City Clerk & Auditor
City of Modesto

December 23, 2003

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-666**

**A RESOLUTION APPROVING THE FINAL MAP OF THE GALAS BROTHERS
SUBDIVISION UNIT NO. 1 SUBDIVISION OF THE CITY OF MODESTO AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION
AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION**

WHEREAS, DEL VALLE HOMES, a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 81.89 acres, known as the GALAS BROTHERS SUBDIVISION UNIT NO. 1 (“SUBDIVISION”), in the Fairview Village Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of December, 1997, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets, alleys 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 subdivider 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 23rd day of December, 2003, 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, Jackman, Keating, Marsh, O'Bryant Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By

Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2003-667**

**A RESOLUTION APPROVING THE FINAL MAP OF THE GALAS BROTHERS
SUBDIVISION UNIT NO. 1 SUBDIVISION OF THE CITY OF MODESTO AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION
AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION**

WHEREAS, DEL VALLE HOMES, a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 35.44 acres, known as the GALAS BROTHERS SUBDIVISION UNIT NO. 2 ("SUBDIVISION"), in the Fairview Village Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of December, 1997, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets, alleys 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 subdivider 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 23rd day of December, 2003, 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, Jackman, Keating, Marsh, O'Bryant
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney